

IN THE UNITED STATES DISTRICT COURT
IN THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

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NETCHOICE, LLC, d/b/a :

NetChoice, a 501(c)(6) :

District of Columbia :

organization, Computer & :

Communications Industry :

Association d/b/a CCIA, :

a 501(c)6 non-stock :

Virginia Corporation :

Plaintiffs, :

v. : Case No.

1:21-cv-00840-RP

KEN PAXTON, in his official :

capacity as Attorney General :

of Texas :

Defendant. :

<p>2</p> <p>1 2 Videotaped Deposition of Carl Szabo 3 Washington, District of Columbia 4 Wednesday, November 17, 2021 5 3:12 p.m. 6 7 Pages 1 - 141 8 Reported by: Susan E. Alldridge, RPR 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>4</p> <p>1 2 A P P E A R A N C E S 3 4 ON BEHALF OF THE PLAINTIFFS: 5 TODD DISHER, ESQUIRE 6 LEHOTSKY KELLER LLP 7 919 Congress Avenue 8 Suite 1100 9 Austin, TX 78701 10 (512)840-9370 11 todd@lehotskykeller.com 12 13 CHRISTOPHER MARCHESE, ESQUIRE 14 NETCHOICE 15 1401 K Street, NW 16 Suite 502 17 Washington, DC 20005 18 (631)707-2315 19 cmarchese@netchoice.org 20 21 22</p>
<p>3</p> <p>1 Deposition of Carl Szabo held at the offices 2 of: 3 4 5 NetChoice 6 1401 K Street, NW 7 Suite 502 8 Washington, DC 20005 9 10 11 12 Pursuant to agreement, before Susan E. Alldridge, 13 Notary Public in and for the District of Columbia. 14 15 16 17 18 19 20 21 22</p>	<p>5</p> <p>1 2 A P P E A R A N C E S, Cont. 3 4 5 ON BEHALF OF THE DEFENDANT: 6 BENJAMIN LYLES, ESQUIRE 7 COURTNEY B. CORBELLO, ESQUIRE 8 ATTORNEY GENERAL KEN PAXTON 9 P.O. Box 12548 10 Austin, TX 78711-2548 11 (512)463-2798 12 benjamin.lyles@oag.texas.gov 13 courtney.corbello@oag.texas.gov 14 15 ALSO PRESENT: 16 Gene Aronov, Videographer 17 18 19 20 21 22</p>

<p>1 CONTENTS</p> <p>2 EXAMINATION OF CARL SZABO PAGE</p> <p>3 By Ms. Corbello 8</p> <p>4</p> <p>5</p> <p>6 EXHIBITS</p> <p>7 (Attached to the transcript)</p> <p>8 SZABO DEPOSITION EXHIBIT PAGE</p> <p>9 Exhibit Number 1 NetChoice, LLC's Declaration 36</p> <p>10 PROCEEDINGS</p> <p>11</p> <p>12 THE VIDEOGRAPHER: Good afternoon.</p> <p>13 This begins the video deposition of</p> <p>14 Carl Szabo taken by the defendants in the matter of</p> <p>15 NetChoice, LLC, et al., versus Ken Paxton, et al.,</p> <p>16 filed in the United States District Court for the</p> <p>17 Western District of Texas, Austin Division, Civil</p> <p>18 Action Number 1:21-cv-00840-RP.</p> <p>19 This deposition is being held at</p> <p>20 NetChoice located at 1401 K Street, Northwest,</p> <p>21 Suite 502, Washington, DC, on November 17th, 2021,</p> <p>22 at approximately 3:12 p.m.</p>	<p>1 Can you state and spell your name for the</p> <p>2 record, please.</p> <p>3 A My name is Carl Szabo. C-A-R-L, S, as in</p> <p>4 Sam, Z, as in zebra, A, as in apple, B, as in boy,</p> <p>5 O, as in October.</p> <p>6 Q Thank you.</p> <p>7 Carl, have you ever taken a deposition</p> <p>8 before?</p> <p>9 A I have not taken a deposition before.</p> <p>10 Q Okay. Well, I'm happy to go over the</p> <p>11 rules with you.</p> <p>12 You're also an attorney; correct?</p> <p>13 A I am also an attorney, yes.</p> <p>14 Q Okay. Would you like me to skip past the</p> <p>15 rules, or do you want to go over them just to be</p> <p>16 sure?</p> <p>17 A Please go over the rules.</p> <p>18 Q Okay. So do you understand that your</p> <p>19 testimony given today in this deposition is the same</p> <p>20 as if you were testifying on the stand in a</p> <p>21 courtroom right now?</p> <p>22 A I understand that.</p>
<p>1 My name is Gene Aronov from the firm</p> <p>2 Integrity Legal Support Solutions, and I'm the legal</p> <p>3 video specialist.</p> <p>4 The court reporter is Sue Alldridge in</p> <p>5 association with Integrity Legal Support Solutions.</p> <p>6 Will counsel please introduce themselves.</p> <p>7 MR. DISHER: Todd Disher for the</p> <p>8 plaintiffs.</p> <p>9 MS. CORBELLO: Courtney Corbello and</p> <p>10 Ben Lyles for Defendant.</p> <p>11 MR. MARCHESE: Chris Marchese for</p> <p>12 Plaintiff.</p> <p>13 THE VIDEOGRAPHER: Will the court</p> <p>14 reporter please swear in the witness.</p> <p>15 -----</p> <p>16 CARL SZABO</p> <p>17 was called as a witness and, after having been</p> <p>18 first duly sworn, testified as follows:</p> <p>19 -----</p> <p>20 EXAMINATION</p> <p>21 BY MS. CORBELLO:</p> <p>22 Q Good afternoon, Mr. Szabo.</p>	<p>1 Q Okay. For the purposes of the court</p> <p>2 reporter, one of the big rules is wait for me to</p> <p>3 finish a question, and then you answer. And try not</p> <p>4 to talk over each other as much as possible so we</p> <p>5 don't drive her insane.</p> <p>6 Fair enough?</p> <p>7 A I agree not to drive the court reporter</p> <p>8 insane.</p> <p>9 Q If you need a break -- I try to take a</p> <p>10 break about every hour or so. But if you need one</p> <p>11 at a different time, all I ask is that you finish</p> <p>12 answering whatever question I've put on the table,</p> <p>13 and then after that we can take a break.</p> <p>14 Fair enough?</p> <p>15 A Understood.</p> <p>16 Q If you do not understand my question or</p> <p>17 if you need me to rephrase it in any way, I'm</p> <p>18 pleased to do so. Please tell me whatever issues</p> <p>19 you might have with the question or if it's unclear</p> <p>20 to you in any way.</p> <p>21 Can I expect you to do that?</p> <p>22 A Yes, you can.</p>

<p>10</p> <p>1 Q And if you answer my questions directly,</p> <p>2 is it fair for me to assume that you understand the</p> <p>3 question that I've posed to you?</p> <p>4 A Yes, it is.</p> <p>5 Q Are you on any medications today that</p> <p>6 would alter your ability to truthfully testify</p> <p>7 today?</p> <p>8 A No.</p> <p>9 Q What is your -- your current job title?</p> <p>10 A My current job title --</p> <p>11 Q Yes.</p> <p>12 A -- is vice president and general counsel</p> <p>13 for NetChoice.</p> <p>14 Q How long have you been in that position?</p> <p>15 A Over ten years.</p> <p>16 Q How long specifically?</p> <p>17 A Ten years and approximately eight months.</p> <p>18 Q And were you with NetChoice before that</p> <p>19 role?</p> <p>20 A Yes.</p> <p>21 Q What was your role at NetChoice</p> <p>22 previously?</p>	<p>12</p> <p>1 Illinois.</p> <p>2 Q Oh, what law firm?</p> <p>3 A The law firm of Wildman, Harrold, Allen</p> <p>4 and Dickson.</p> <p>5 Q What law school did you go to?</p> <p>6 A I went to the Catholic University law</p> <p>7 school.</p> <p>8 Q Where is that?</p> <p>9 A That is in Washington, DC.</p> <p>10 Q Your current job is VP and general</p> <p>11 counsel for NetChoice.</p> <p>12 What do -- what are your job duties in</p> <p>13 those titles?</p> <p>14 A Some of my job duties include managing</p> <p>15 the legal team at NetChoice. It also involves</p> <p>16 meeting with clients -- or -- sorry -- meeting with</p> <p>17 members. I apologize -- meeting with members,</p> <p>18 membership development.</p> <p>19 It involves speaking with reporters on</p> <p>20 issues that matter. It also involves advocacy for</p> <p>21 our members and on the issues of free expression and</p> <p>22 free enterprise on the internet.</p>
<p>11</p> <p>1 A Previously, before becoming vice</p> <p>2 president and general counsel --</p> <p>3 Q Yes.</p> <p>4 A -- my role was as policy counsel.</p> <p>5 Q What does that job -- that job entail?</p> <p>6 A That job entails analyzing legislation,</p> <p>7 advising the NetChoice employees as well as the</p> <p>8 NetChoice president, as well as having conversations</p> <p>9 with members and discussing impending legislation,</p> <p>10 its legal impact.</p> <p>11 We've engaged in legal activity and a</p> <p>12 myriad of other engagements.</p> <p>13 Q How long were you a policy counsel for at</p> <p>14 NetChoice before becoming VP?</p> <p>15 A I do not know exactly, but approximately</p> <p>16 four to six years.</p> <p>17 Q And prior to being policy counsel, what</p> <p>18 was your job title?</p> <p>19 A I was not working at NetChoice prior to</p> <p>20 becoming policy counsel for NetChoice.</p> <p>21 Q Where were you working?</p> <p>22 A I was working at a law firm in Chicago,</p>	<p>13</p> <p>1 Q I noticed you post quite a few articles</p> <p>2 on the NetChoice website.</p> <p>3 Is that part of your job duties?</p> <p>4 A Part of my job duties is advocacy for</p> <p>5 free expression and free enterprise. That can</p> <p>6 include publication of articles, statements in the</p> <p>7 media, appearances on TV and also on radio.</p> <p>8 Q Have you testified in front of Congress</p> <p>9 before?</p> <p>10 A Which Congress? The --</p> <p>11 Q Let's start with the U.S.</p> <p>12 A I've testified before the U.S. House of</p> <p>13 Representatives as well as the United States Senate.</p> <p>14 Q For your testimony at the House of</p> <p>15 Representatives, what was the topic for each time</p> <p>16 that you appeared?</p> <p>17 A I testified once at the U.S. House of</p> <p>18 Representatives. It was either Energy and Commerce</p> <p>19 committee or Judiciary committee. I can't recall</p> <p>20 off the top of my head. And the issue was on</p> <p>21 antitrust.</p> <p>22 Q And what about the Senate? How many</p>

<p>14</p> <p>1 times did you testify there, and what were the</p> <p>2 topics?</p> <p>3 A I have testified once before the Senate.</p> <p>4 It was the Senate Judiciary committee. And that was</p> <p>5 on the issue of online advertising, the online</p> <p>6 advertising ecosystem, as well as issues of</p> <p>7 government enforcement of antitrust law.</p> <p>8 Q What year did that Senate testimony take</p> <p>9 place?</p> <p>10 A I do not recall off the top of my head</p> <p>11 what year. It was during COVID, however.</p> <p>12 Q It's sad that that's a time frame I</p> <p>13 understand.</p> <p>14 What about state legislatures?</p> <p>15 Have you testified in front of any state</p> <p>16 legislatures before?</p> <p>17 A I testified before many state</p> <p>18 legislatures.</p> <p>19 Q Let's start with Texas.</p> <p>20 Have you ever testified before the Texas</p> <p>21 legislature?</p> <p>22 A I have testified before the Texas</p>	<p>16</p> <p>1 A I have testified before the Florida</p> <p>2 legislature on the issue of what happens to your</p> <p>3 digital assets when you die.</p> <p>4 Q Any other topics that you've testified</p> <p>5 on?</p> <p>6 A I have testified before the Florida</p> <p>7 legislature on the issue of data breach legislation.</p> <p>8 Q Anything else?</p> <p>9 A I have testified before the Florida</p> <p>10 legislature on the social media law in the state of</p> <p>11 Florida.</p> <p>12 Q When you say "social media law," is that</p> <p>13 the one that is the subject of NetChoice versus</p> <p>14 Moody that's currently ongoing right now in federal</p> <p>15 court?</p> <p>16 A That is the issue on which I testified,</p> <p>17 yes.</p> <p>18 Q What other issues have you testified on</p> <p>19 before the Florida legislature?</p> <p>20 A That is all that I recall at this time.</p> <p>21 Q Have you testified before the California</p> <p>22 legislature before?</p>
<p>15</p> <p>1 legislature.</p> <p>2 Q Okay. And who did you testify before?</p> <p>3 A I do not recall.</p> <p>4 Q Do you remember the topics?</p> <p>5 A I believe one of the issues was on the</p> <p>6 question of taxation. I do not recall which</p> <p>7 subdivision it was on.</p> <p>8 Q Taxation of who exactly?</p> <p>9 A I don't remember.</p> <p>10 Q Do you recall approximately what year</p> <p>11 this was?</p> <p>12 A It was before COVID. But, no, I don't</p> <p>13 recall the exact year.</p> <p>14 Q Have you provided any other testimony at</p> <p>15 the Texas legislative level over than this taxation</p> <p>16 one you just mentioned?</p> <p>17 A Not to my knowledge.</p> <p>18 Q Have you testified before in front of the</p> <p>19 Florida legislature?</p> <p>20 A Yes, I've testified before the Florida</p> <p>21 legislature.</p> <p>22 Q And what was that testimony for?</p>	<p>17</p> <p>1 A I do not recall.</p> <p>2 Q Have you provided any testimony before</p> <p>3 the California legislature on the California privacy</p> <p>4 act?</p> <p>5 A I do not recall.</p> <p>6 Q Did NetChoice engage in any lobbying</p> <p>7 activities while the California privacy act was</p> <p>8 passing through the legislative process?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 Objection. Scope.</p> <p>11 Go ahead and answer.</p> <p>12 THE WITNESS: What do you mean by</p> <p>13 "lobbying"?</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q Well, we'll back up.</p> <p>16 NetChoice is a trade association.</p> <p>17 What does NetChoice do?</p> <p>18 A NetChoice promotes free expression and</p> <p>19 free enterprise on the internet.</p> <p>20 Q And how does it do that?</p> <p>21 A By advocating with state/federal</p> <p>22 lawmakers through engagement on legal actions, if</p>

<p style="text-align: right;">18</p> <p>1 necessary, and through education of individuals as</p> <p>2 well as lawmakers.</p> <p>3 Q So the activities you just described,</p> <p>4 advocating and education, did you engage in any of</p> <p>5 those activities in relation to the California</p> <p>6 privacy act?</p> <p>7 MR. DISHER: Objection. Scope.</p> <p>8 Go ahead.</p> <p>9 THE WITNESS: I recall that we engaged</p> <p>10 in -- or to the best of my knowledge, I believe we</p> <p>11 filed and published an op-ed on the California</p> <p>12 Consumer Privacy Act.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Thank you. I was just about to clarify</p> <p>15 that.</p> <p>16 So I think I used kind of a vague way of</p> <p>17 expressing -- of naming that law.</p> <p>18 When I said "California privacy act," you</p> <p>19 understood me to mean the California Consumer</p> <p>20 Protection Act; correct?</p> <p>21 A Correct.</p> <p>22 Q What other -- besides advocating and</p>	<p style="text-align: right;">20</p> <p>1 A Much of NetChoice goals are centered</p> <p>2 around engaging directly with individuals.</p> <p>3 Q So what resources are used in order to do</p> <p>4 that?</p> <p>5 A I don't think that's necessarily within</p> <p>6 the scope of what we covered in my declaration.</p> <p>7 Q Can you go ahead and answer the question,</p> <p>8 Mr. Szabo?</p> <p>9 MR. DISHER: Objection. Scope.</p> <p>10 Go ahead and answer if you can.</p> <p>11 THE WITNESS: We sometimes engage in</p> <p>12 flying NetChoice employees to various parts of the</p> <p>13 country to engage directly. We attend meetings and</p> <p>14 events.</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q Any other resources?</p> <p>17 MR. DISHER: Objection. Scope.</p> <p>18 Go ahead and answer.</p> <p>19 THE WITNESS: We sometimes retain outside</p> <p>20 counsel.</p> <p>21 BY MS. CORBELLO:</p> <p>22 Q I'm sorry. Go ahead.</p>
<p style="text-align: right;">19</p> <p>1 education, are there any other activities that</p> <p>2 NetChoice engages in in order to meet its goals that</p> <p>3 you've told me about?</p> <p>4 A We spend considerable resources trying to</p> <p>5 meet with proponents and opponents of legislation to</p> <p>6 better identify concerns, identify potential</p> <p>7 unintended consequences of legislation, as well as</p> <p>8 to discuss the impact of enacted legislation.</p> <p>9 Q When you say "resources," what sort of</p> <p>10 resources are you talking about?</p> <p>11 A We spend human capital in the form of</p> <p>12 assigning NetChoice employees and -- to work on</p> <p>13 these various issues.</p> <p>14 We engage in creation of original content</p> <p>15 from NetChoice such as one papers -- or -- sorry --</p> <p>16 one-pagers, legal analyses such as law review</p> <p>17 articles, as well as occasionally printing copies</p> <p>18 and sharing them with those who are interested in</p> <p>19 learning more.</p> <p>20 Q Other than human capital, what other</p> <p>21 resources are expended in order to meet NetChoice's</p> <p>22 goals?</p>	<p style="text-align: right;">21</p> <p>1 A And we sometimes do paid advertisements</p> <p>2 through services like Facebook and Twitter.</p> <p>3 Q Besides Facebook and Twitter, what other</p> <p>4 platforms does NetChoice pay for advertisement?</p> <p>5 A Hulu. And that is all that I know.</p> <p>6 Q What are -- what are these advertisements</p> <p>7 advertising exactly?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: These advertisements are</p> <p>10 advertising and promoting the core values of</p> <p>11 NetChoice, which are free expression and free</p> <p>12 enterprise on the internet.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Are the advertisements aimed at the</p> <p>15 public at large, or is there a specific demographic</p> <p>16 that you're trying to reach with these</p> <p>17 advertisements?</p> <p>18 MR. DISHER: Objection. Form.</p> <p>19 Objection. Scope.</p> <p>20 Go ahead and answer if you can.</p> <p>21 THE WITNESS: I don't know specifically</p> <p>22 who we are trying to target and who we are trying to</p>

<p style="text-align: right;">22</p> <p>1 reach.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Do the ads solicit money in any way?</p> <p>4 A Not to my knowledge.</p> <p>5 Q Do they request donations in any way?</p> <p>6 A Not to my knowledge.</p> <p>7 Q Do they provide viewers of the</p> <p>8 advertisements direction on how to provide donations</p> <p>9 to NetChoice?</p> <p>10 A Not to my knowledge.</p> <p>11 Q How does NetChoice receive any funding or</p> <p>12 income?</p> <p>13 MR. DISHER: Objection form. Objection.</p> <p>14 Scope.</p> <p>15 THE WITNESS: NetChoice receives</p> <p>16 membership dues.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Does NetChoice receive any other form of</p> <p>19 revenue other than from membership dues?</p> <p>20 A NetChoice receives revenue from NetChoice</p> <p>21 members primarily who support and promote our</p> <p>22 mission of free expression and free enterprise.</p>	<p style="text-align: right;">24</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Which members do you have confidentiality</p> <p>3 agreements with?</p> <p>4 MR. DISHER: Objection. Form.</p> <p>5 Objection. Scope.</p> <p>6 I will instruct the witness not to answer</p> <p>7 to the extent that it will disclose information</p> <p>8 outside of the declaration that is not covered by</p> <p>9 the Court's order restricting this deposition to</p> <p>10 topics covered in the declaration.</p> <p>11 To the extent you can disclose the</p> <p>12 identities of those individual companies or entities</p> <p>13 you might have non-disclosure agreements with</p> <p>14 without violating the non-disclosure agreement</p> <p>15 itself, I will allow you to do that.</p> <p>16 To the extent that the existence of those</p> <p>17 non-disclosure agreements itself is somehow</p> <p>18 protected or confidential outside the scope of your</p> <p>19 declaration, I'll instruct you not to answer the</p> <p>20 question.</p> <p>21 THE WITNESS: Being unable to review</p> <p>22 those documents in preparation for this deposition,</p>
<p style="text-align: right;">23</p> <p>1 Q And what are the other sources of revenue</p> <p>2 other than the membership dues?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 Objection. Scope.</p> <p>5 THE WITNESS: We receive, sometimes,</p> <p>6 additional revenue in pursuit of specific projects</p> <p>7 directed towards promoting free expression and free</p> <p>8 enterprise.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q And where does that revenue come from?</p> <p>11 Is it a company or an individual?</p> <p>12 MR. DISHER: Same objections.</p> <p>13 THE WITNESS: They come from companies.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q Which companies provide that sort of</p> <p>16 revenue that you just described?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 Objection. Scope.</p> <p>19 THE WITNESS: I believe to answer that</p> <p>20 would violate confidentiality agreements I have with</p> <p>21 members.</p> <p>22</p>	<p style="text-align: right;">25</p> <p>1 given that those non-disclosure agreements are</p> <p>2 outside the scope of my declaration, I did not</p> <p>3 review them prior to this deposition. So I cannot,</p> <p>4 with confidence, ensure that answering your</p> <p>5 questions will not violate my disclosure agreements.</p> <p>6 MS. CORBELLO: Okay. And just for the</p> <p>7 record, we'll preserve our objection to the</p> <p>8 instruction not to answer there.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q Sorry. Can you tell me one more time?</p> <p>11 You -- what was this -- this revenue that</p> <p>12 we just had this little dispute over, what was that</p> <p>13 for?</p> <p>14 I didn't have the time to write it down.</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 Objection. Scope.</p> <p>17 THE WITNESS: Additional funding to</p> <p>18 promote our mission of free expression and free</p> <p>19 enterprise.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q How does that specific funding promote</p> <p>22 free expression and free enterprise?</p>

<p style="text-align: right;">26</p> <p>1 MR. DISHER: Same objections.</p> <p>2 THE WITNESS: It enables us to address</p> <p>3 increased threats to free expression and free</p> <p>4 enterprise on the internet.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q How -- how specifically are those</p> <p>7 increased threats addressed?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 Objection. Scope.</p> <p>10 THE WITNESS: We sometimes -- rephrase.</p> <p>11 We use the funding in part to enable us</p> <p>12 to engage at events, to travel for purposes of</p> <p>13 testimony, and to promote our core values of free</p> <p>14 expression and free enterprise.</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q And when you say "increased threats," can</p> <p>17 you give me an example of something that NetChoice</p> <p>18 sees as an increased threat?</p> <p>19 A An example of an increased threat would</p> <p>20 be legislation that violates the editorial rights of</p> <p>21 our members in conflict with their constitutional</p> <p>22 rights given under the First Amendment.</p>	<p style="text-align: right;">28</p> <p>1 there two different categories for NetChoice?</p> <p>2 And if there's -- if they're not, that's</p> <p>3 fine. If they're all increased threats, you can</p> <p>4 tell me that.</p> <p>5 But are there some threats that are seen</p> <p>6 as the increased threats versus just an ordinary</p> <p>7 threat, for lack of a better word?</p> <p>8 Does that make sense?</p> <p>9 A Yes.</p> <p>10 A threat would be a piece of legislation</p> <p>11 that is moving. That threat is increased when that</p> <p>12 piece of legislation becomes law. That is an</p> <p>13 example of an increased threat.</p> <p>14 Q Thank you.</p> <p>15 This additional revenue we've been</p> <p>16 talking about, is that used to fund litigation</p> <p>17 brought by NetChoice?</p> <p>18 MR. DISHER: Objection. Form.</p> <p>19 Objection. Scope.</p> <p>20 THE WITNESS: I do not know if answering</p> <p>21 that question will violate my NDA with members.</p> <p>22</p>
<p style="text-align: right;">27</p> <p>1 Q Can you give me an example of something</p> <p>2 that would not fall into that category and, yet,</p> <p>3 NetChoice would still be, in whatever way, working</p> <p>4 to address it?</p> <p>5 A Another example would be a state</p> <p>6 attempting to apply discriminatory taxes to digital</p> <p>7 advertisements exclusively in violation of the</p> <p>8 Permanent Internet Tax Fairness Act.</p> <p>9 Q And this might be my fault, but are you</p> <p>10 saying that that's not an increased threat to</p> <p>11 NetChoice?</p> <p>12 MR. DISHER: Objection. Form.</p> <p>13 THE WITNESS: A law that violates our</p> <p>14 members' constitutional protections, whether it is</p> <p>15 for digital ads or for their right to engage in</p> <p>16 editorial discretion with respect to the content on</p> <p>17 their services, are both threats to NetChoice</p> <p>18 members.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q Understood.</p> <p>21 But the phrase you used was "increased</p> <p>22 threats." So I guess I'm trying to understand. Are</p>	<p style="text-align: right;">29</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Understood.</p> <p>3 The membership dues that NetChoice</p> <p>4 receives, are the membership dues the same across</p> <p>5 all members?</p> <p>6 A Membership dues are the same across all</p> <p>7 members.</p> <p>8 Q All members pay the exact same amount --</p> <p>9 amount in terms of membership dues?</p> <p>10 A All members are charged the same amount</p> <p>11 in membership dues.</p> <p>12 Q Regardless of the members' size or market</p> <p>13 power; is that right?</p> <p>14 A Regardless of members' market size or</p> <p>15 market power, they are all charged the same</p> <p>16 membership dues.</p> <p>17 Q And they all pay the same dollar amount</p> <p>18 for membership dues; is that right? Your members?</p> <p>19 A To the extent that some members may not</p> <p>20 be able to afford a membership, we have, rarely,</p> <p>21 offered discounts. However, the membership dues</p> <p>22 remain the same for all members.</p>

<p>30</p> <p>1 Q And I -- just to clarify, when you say</p> <p>2 "the same," are you saying the same in terms of</p> <p>3 dollar amount?</p> <p>4 A The same dollars for annual dues is what</p> <p>5 I meant by "the same."</p> <p>6 Q Thank you.</p> <p>7 I'm sure you understand, CCIA is the</p> <p>8 other plaintiff in this matter; correct?</p> <p>9 A CCIA is our co-plaintiff in this lawsuit.</p> <p>10 Q Are you currently -- is NetChoice</p> <p>11 currently a plaintiff -- or co-plaintiff with CCIA</p> <p>12 in any other litigation?</p> <p>13 A NetChoice and CCIA are co-plaintiffs in</p> <p>14 our litigation against Moody.</p> <p>15 Q That's the Florida litigation you're</p> <p>16 talking about?</p> <p>17 A Correct.</p> <p>18 Q Any other litigation besides the Moody</p> <p>19 case that NetChoice and CCIA are currently</p> <p>20 co-plaintiffs on?</p> <p>21 A Not to my knowledge.</p> <p>22 Q Has NetChoice and CCIA been co-plaintiffs</p>	<p>32</p> <p>1 A We have posted a tweet on Twitter, for</p> <p>2 example, of how we think about the CCIA document and</p> <p>3 provided a link to that document.</p> <p>4 Q Does NetChoice pay any of its members to</p> <p>5 promote either NetChoice's content or CCIA's content</p> <p>6 on their platforms?</p> <p>7 MR. DISHER: Objection. Form.</p> <p>8 Objection. Scope.</p> <p>9 THE WITNESS: In what way do you mean pay</p> <p>10 our members?</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Well, similarly to the way advertisers</p> <p>13 would pay to have their content on a social media</p> <p>14 platform, is NetChoice paying any of their members</p> <p>15 in order to promote the content we just talked about</p> <p>16 so that it maybe is more easily seen by users or</p> <p>17 appears higher up in a search engine search?</p> <p>18 Does that make sense?</p> <p>19 MR. DISHER: Same objections.</p> <p>20 THE WITNESS: NetChoice does, on</p> <p>21 occasion, pay for advertising.</p> <p>22</p>
<p>31</p> <p>1 on any past, now-completed litigation?</p> <p>2 A Not -- not that I'm aware of.</p> <p>3 Q Does NetChoice partner with CCIA in any</p> <p>4 other context besides this lawsuit or the Florida</p> <p>5 lawsuit?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 THE WITNESS: What do you mean by</p> <p>8 "partner"?</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q I mean that term as broadly as possible.</p> <p>11 Are there any other avenues in which</p> <p>12 NetChoice and CCIA have chosen to partner up in any</p> <p>13 way, whether it's sharing of resources, sharing of</p> <p>14 ideas, any -- any way that you can interpret the</p> <p>15 word "partner."</p> <p>16 A NetChoice and CCIA have promoted one</p> <p>17 another's content at times. For example, if CCIA</p> <p>18 releases an interesting article or publication, we</p> <p>19 have used social media to raise awareness of that</p> <p>20 publication.</p> <p>21 Q And when you say "used social media,"</p> <p>22 what does that mean?</p>	<p>33</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Does NetChoice's ability to advertise</p> <p>3 with any of its members play any role in the</p> <p>4 membership of these members to NetChoice's trade</p> <p>5 association?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 THE WITNESS: Can you clarify the</p> <p>8 question, please?</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q Well -- so NetChoice's members pay dues;</p> <p>11 correct?</p> <p>12 A NetChoice's members pay dues.</p> <p>13 Q And then they are considered members of</p> <p>14 NetChoice; right?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: NetChoice's members pay</p> <p>17 dues, and they agree to support our mission of</p> <p>18 promoting free expression and free enterprise.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q And as part of membership into</p> <p>21 NetChoice's -- into the trade association that is</p> <p>22 NetChoice, are members required or obligated in any</p>

<p style="text-align: right;">34</p> <p>1 way to advertise for NetChoice on their platforms?</p> <p>2 MR. DISHER: Object to form. Object to</p> <p>3 scope.</p> <p>4 THE WITNESS: Are you asking a quid pro</p> <p>5 quo? Is that the suggestion?</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q I don't think it necessarily has to be a</p> <p>8 quid pro quo. But to me it seems like there can</p> <p>9 either be -- there's the membership side. Your</p> <p>10 members benefit. NetChoice, you know, works on</p> <p>11 behalf of its members to achieve its goals. And</p> <p>12 then NetChoice also operates, as any advertiser</p> <p>13 would, to pay the members it wants to to advertise</p> <p>14 on those platforms.</p> <p>15 Are these two separate activities that</p> <p>16 NetChoice engages in, or is one part of the other?</p> <p>17 A NetChoice advertises where we think it</p> <p>18 will be most effective.</p> <p>19 Q And are your members obligated in any way</p> <p>20 to host that advertisement as a result of being</p> <p>21 members of NetChoice?</p> <p>22 A NetChoice has had advertisements rejected</p>	<p style="text-align: right;">36</p> <p>1 A Not to my knowledge.</p> <p>2 Q I've left you a binder there for the sake</p> <p>3 of ease. And I'm going to hand you very quickly</p> <p>4 what's been -- will be marked as Defense Exhibit 1</p> <p>5 in a moment.</p> <p>6 (Szabo Deposition Exhibit 1 was marked</p> <p>7 for identification and attached to the transcript.)</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q I'll ask you to just look this over.</p> <p>10 A Thank you.</p> <p>11 Q And -- oh, yeah. Feel free to look at</p> <p>12 the other pile, if you'd like.</p> <p>13 MR. DISHER: This is in tab 4 of the</p> <p>14 binder?</p> <p>15 MS. CORBELLO: Yes.</p> <p>16 MR. DISHER: Okay.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q If you could just verify that that marked</p> <p>19 exhibit is your declaration for the purposes of the</p> <p>20 court reporter. And then for ease, if you'd like to</p> <p>21 follow along in tab 4 instead, you could do that.</p> <p>22 Just let me know when you're done</p>
<p style="text-align: right;">35</p> <p>1 when we try to publish them on members' sites.</p> <p>2 Q What were those advertisements rejected</p> <p>3 for?</p> <p>4 A I do not recall.</p> <p>5 Q Do you -- are there any documents that</p> <p>6 would help you to recall?</p> <p>7 MR. DISHER: Object to form. Object to</p> <p>8 scope.</p> <p>9 THE WITNESS: Not particularly, no.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q NetChoice doesn't keep any record of the</p> <p>12 advertisements it attempts to submit to platforms?</p> <p>13 MR. DISHER: Objection. Form.</p> <p>14 Objection. Scope.</p> <p>15 THE WITNESS: Not to my knowledge.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q We talked about one way in which CCIA and</p> <p>18 NetChoice partner with each other outside of the</p> <p>19 context of the lawsuits they're currently engaged in</p> <p>20 just promoting each other's content.</p> <p>21 Are there any other ways in which CCIA</p> <p>22 and NetChoice partner currently?</p>	<p style="text-align: right;">37</p> <p>1 reviewing that.</p> <p>2 MS. CORBELLO: Todd, do you mind if we go</p> <p>3 off the record so we can give Mr. Szabo as much time</p> <p>4 as he needs to review?</p> <p>5 MR. DISHER: That's fine.</p> <p>6 THE VIDEOGRAPHER: We're going off the</p> <p>7 record.</p> <p>8 The time is 3:49 p.m.</p> <p>9 (Off the record.)</p> <p>10 THE VIDEOGRAPHER: We're back on the</p> <p>11 record.</p> <p>12 The time is 3:50 p.m.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Mr. Szabo, now that you've had a chance</p> <p>15 to look at it, is the document I handed you marked</p> <p>16 as Defense Exhibit 1 a true and correct copy of the</p> <p>17 declaration you submitted in support of Plaintiffs'</p> <p>18 motion for preliminary injunction in this case?</p> <p>19 A Yes.</p> <p>20 Q You can go ahead and, if you want, hand</p> <p>21 that to the court reporter and use the tab instead.</p> <p>22 A Thank you.</p>

<p>38</p> <p>1 Q I want to turn you first to paragraph 2.</p> <p>2 If you need a second to read that, let me know.</p> <p>3 Are you ready?</p> <p>4 So here in paragraph 2 you're talking</p> <p>5 about advocacy before legislative bodies, courts,</p> <p>6 and government agencies.</p> <p>7 Can you tell me what kind of advocacy was</p> <p>8 done, in relation to HB20 as it was passing through</p> <p>9 the legislative process, by NetChoice?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 Objection. Scope.</p> <p>12 THE WITNESS: NetChoice testified before</p> <p>13 the Texas legislature in opposition to HB20.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q What other advocacy measures did</p> <p>16 NetChoice take in relation to HB20 while it was</p> <p>17 passing through the legislative process?</p> <p>18 MR. DISHER: Same objections.</p> <p>19 THE WITNESS: NetChoice engaged in</p> <p>20 publishing an editorial outlining how HB20 would, in</p> <p>21 part -- sorry. NetChoice filed -- I'm sorry.</p> <p>22 NetChoice published an op-ed outlining how HB20</p>	<p>40</p> <p>1 you to recall?</p> <p>2 MR. DISHER: Objection. Scope.</p> <p>3 THE WITNESS: For purposes of this</p> <p>4 declaration, I looked at -- sorry. For purposes of</p> <p>5 this deposition, I instead focused primarily on the</p> <p>6 issues covered in my declaration.</p> <p>7 Seeing as how this editorial was</p> <p>8 published before enactment of the law, it did not</p> <p>9 seem pertinent and is not pertinent to the scope of</p> <p>10 my declaration.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q I understand that you may not have</p> <p>13 reviewed any documents regarding the editorial.</p> <p>14 However, my question was a little bit different.</p> <p>15 Are there any documents -- and you can</p> <p>16 simply name them or identify them in any way</p> <p>17 possible -- that would help you to recall the facts</p> <p>18 that I've asked you about in regards to this</p> <p>19 editorial?</p> <p>20 MR. DISHER: Objection. Form.</p> <p>21 THE WITNESS: The publicly available</p> <p>22 newspaper in which it was published would allow me</p>
<p>39</p> <p>1 violates the editorial discretion of NetChoice</p> <p>2 members and would lead to the production of lawful</p> <p>3 but awful content on the internet.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q Where was this op-ed published?</p> <p>6 A I do not recall.</p> <p>7 Q Did NetChoice pay to promote this op-ed</p> <p>8 in any way?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 THE WITNESS: I do not know.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q And was it just one editorial that was</p> <p>13 published in relation to HB20 as it was passing</p> <p>14 through the legislative process?</p> <p>15 A I do not know.</p> <p>16 Q You don't know of any other editorials</p> <p>17 that were published at that time?</p> <p>18 A Not off the top of my head, no.</p> <p>19 Q Is -- the editorial you just spoke about,</p> <p>20 is that one that you drafted yourself?</p> <p>21 A I do not recall.</p> <p>22 Q Are there any documents that would help</p>	<p>41</p> <p>1 to recall those facts.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Any other documents you could think of?</p> <p>4 A Not off the top of my head.</p> <p>5 Q Other than testifying in opposition to</p> <p>6 HB20 and publishing this editorial we just spoke</p> <p>7 about, are there any other advocacy actions that</p> <p>8 NetChoice took in relation to HB20 as it passed</p> <p>9 through the legislative process?</p> <p>10 MR. DISHER: Objection. Scope.</p> <p>11 THE WITNESS: We spoke with members about</p> <p>12 how this legislation would impact their ability to</p> <p>13 engage in their editorial discretion guaranteed</p> <p>14 under the First Amendment, how it would permanently</p> <p>15 impact their ability to not only find customers and</p> <p>16 advertisers but would actually have a detrimental</p> <p>17 value on their brand, as well as violate their</p> <p>18 ability to engage in editorial conduct as they see</p> <p>19 fit.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q Any other advocacy action that NetChoice</p> <p>22 took in relation to HB20 while it was passing</p>

<p style="text-align: right;">42</p> <p>1 through the legislative process?</p> <p>2 MR. DISHER: Objection. Scope.</p> <p>3 THE WITNESS: Not off the top of my head,</p> <p>4 no.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q Did NetChoice pay any opposition -- any</p> <p>7 groups that were in opposition to HB20 in relation</p> <p>8 to HB20 passing through the legislative process?</p> <p>9 MR. DISHER: Same objection.</p> <p>10 THE WITNESS: Is it -- did we pay any</p> <p>11 groups who opposed? Is that the question?</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q Well, I understand that there might be</p> <p>14 groups who opposed HB20 but, perhaps, NetChoice</p> <p>15 didn't pay them because of that opposition. Maybe</p> <p>16 something else.</p> <p>17 So I tried to qualify it the best I</p> <p>18 could. Unfortunately, I had to use a lot of the</p> <p>19 same words.</p> <p>20 Did NetChoice pay any groups opposed to</p> <p>21 HB20 in relation to that opposition to HB20?</p> <p>22 Does that make more sense?</p>	<p style="text-align: right;">44</p> <p>1 Who initiated those conversations? Was</p> <p>2 it NetChoice or its members?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: NetChoice engaged its</p> <p>5 members to discuss how HB20 might impact them.</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q And when you use the word "engaged," you</p> <p>8 mean NetChoice initiated the conversations with its</p> <p>9 members?</p> <p>10 A NetChoice did initiate conversations with</p> <p>11 its members on how HB20 would impact their ability</p> <p>12 to engage in editorial discretion over the content</p> <p>13 on their site.</p> <p>14 Q Did these meetings take place in person</p> <p>15 or in some other way?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 THE WITNESS: NetChoice engaged in phone</p> <p>18 and video conference meetings with its members to</p> <p>19 discuss how HB20 would impact their ability to</p> <p>20 engage in editorial discretion over the content on</p> <p>21 their services.</p> <p>22</p>
<p style="text-align: right;">43</p> <p>1 A To the best of my knowledge, NetChoice</p> <p>2 did not pay any group to oppose HB20.</p> <p>3 Q Did NetChoice pay any groups that were</p> <p>4 already opposing HB20 in order to fund their</p> <p>5 abilities to oppose HB20?</p> <p>6 A To the best of my knowledge, NetChoice</p> <p>7 did not fund or provide support financially to any</p> <p>8 group that was already opposed to HB20 to oppose</p> <p>9 HB20.</p> <p>10 Q The -- well, let me ask this. Any other</p> <p>11 advocacy actions that we haven't already talked</p> <p>12 about that NetChoice took in relation to HB20 as it</p> <p>13 passed through the legislative process?</p> <p>14 MR. DISHER: Objection. Scope.</p> <p>15 THE WITNESS: As I answered previously,</p> <p>16 to the best of my knowledge, I -- I have given you</p> <p>17 all the activities.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q I apologize if I asked and answered that.</p> <p>20 I couldn't remember.</p> <p>21 You said one of the activities was that</p> <p>22 NetChoice spoke with its members about HB20.</p>	<p style="text-align: right;">45</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Did NetChoice engage in any form of</p> <p>3 written communication between its members in regards</p> <p>4 to HB20?</p> <p>5 A NetChoice provided members copies of</p> <p>6 written testimony that was given before the Texas</p> <p>7 legislature in opposition to HB20.</p> <p>8 Q Are there any other written</p> <p>9 communications between NetChoice and its members in</p> <p>10 regards to HB20?</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: NetChoice spoke with</p> <p>13 NetChoice members about how HB20 would prevent them</p> <p>14 from engaging in the editorial conduct for their</p> <p>15 sites and services, and some of that communication</p> <p>16 was written.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q What was the written form of</p> <p>19 communication?</p> <p>20 Was it email or something else?</p> <p>21 A The form of communication was email.</p> <p>22 Q Which members did this email</p>

<p style="text-align: right;">46</p> <p>1 communication take place with between NetChoice and</p> <p>2 its members?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: There were many emails that</p> <p>5 engaged with NetChoice members. NetChoice does its</p> <p>6 best to speak with all of its members on issues that</p> <p>7 will impact them directly.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q The phone and video communication you</p> <p>10 just mentioned, were any of those communication</p> <p>11 platforms recorded?</p> <p>12 A Not to my knowledge.</p> <p>13 Q Did NetChoice speak with all of its</p> <p>14 members in regards to HB20 while it was in the</p> <p>15 legislative process?</p> <p>16 A NetChoice spoke to many of our members</p> <p>17 about HB20 and its impact on their ability to engage</p> <p>18 in editorial discretion with regard to the content</p> <p>19 on their sites in violation of their First Amendment</p> <p>20 protections.</p> <p>21 Q Are there any of NetChoice's members that</p> <p>22 it did not speak to at any time regarding HB20?</p>	<p style="text-align: right;">48</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Did -- did you or any other agent of</p> <p>3 NetChoice speak to any Texas legislators about HB20</p> <p>4 while it was in the legislative process?</p> <p>5 MR. DISHER: Objection. Form.</p> <p>6 Objection. Scope.</p> <p>7 THE WITNESS: NetChoice spoke with Texas</p> <p>8 legislature -- legislators when it was testifying</p> <p>9 before the Texas legislature on HB20 in opposition</p> <p>10 due to its impact on our members and their removal</p> <p>11 of their ability to engage in editorial discretion</p> <p>12 given to them under the First Amendment.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Did you or any other agent of NetChoice</p> <p>15 speak to Texas legislators individually regarding</p> <p>16 HB20?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 Objection. Scope.</p> <p>19 THE WITNESS: NetChoice spoke directly to</p> <p>20 lawmakers individually as part of their testimony</p> <p>21 during our opposition to HB20.</p> <p>22</p>
<p style="text-align: right;">47</p> <p>1 A I'm going to review my list of members</p> <p>2 and let you know.</p> <p>3 Given the ambiguity in the legislation</p> <p>4 and its impact on many NetChoice members, we made</p> <p>5 outreaches to, I believe, all NetChoice members as</p> <p>6 they could be potentially impacted by HB20 due to</p> <p>7 the vagaries of the statute.</p> <p>8 Q Other than phone, video, email, and I</p> <p>9 assume spoken communications with its members, did</p> <p>10 NetChoice communicate with its members in any other</p> <p>11 way regarding HB20?</p> <p>12 A Not to my knowledge.</p> <p>13 MR. DISHER: Objection to form.</p> <p>14 Go ahead.</p> <p>15 THE WITNESS: Sorry.</p> <p>16 Not to my knowledge.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Do you or any other agent of NetChoice</p> <p>19 text with any of the employees of its members?</p> <p>20 MR. DISHER: Objection. Form.</p> <p>21 THE WITNESS: We do not engage in SMS</p> <p>22 communication with members.</p>	<p style="text-align: right;">49</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Other than the testimony you just told me</p> <p>3 about, did anyone at NetChoice -- you or any other</p> <p>4 agents of NetChoice speak to any Texas legislators</p> <p>5 individually about HB20?</p> <p>6 MR. DISHER: Same objections.</p> <p>7 THE WITNESS: As I did not speak to any</p> <p>8 other Texas legislators about HB20, I cannot</p> <p>9 100 percent guarantee that a NetChoice agent spoke</p> <p>10 directly with a Texas lawmaker about HB20.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Are you aware even from third-party</p> <p>13 information of any NetChoice employees who spoke</p> <p>14 with a Texas legislator regarding HB20?</p> <p>15 MR. DISHER: Same objections.</p> <p>16 THE WITNESS: Any suggestion would be</p> <p>17 hearsay.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q That's fine.</p> <p>20 MR. DISHER: Same objections.</p> <p>21 THE WITNESS: I believe NetChoice</p> <p>22 employees did meet with Texas lawmakers in advance</p>

<p>50</p> <p>1 of the passage of HB20 to make them aware of how the</p> <p>2 law not only violates the First Amendment and</p> <p>3 impedes the ability of our members to engage in</p> <p>4 editorial discretion given to them under the</p> <p>5 First Amendment but also how it would unleash lawful</p> <p>6 but awful content onto the internet.</p> <p>7 BY MS. CORBELLO:</p> <p>8 Q And what are the names of those</p> <p>9 lawmakers?</p> <p>10 MR. DISHER: Same objections.</p> <p>11 THE WITNESS: I do not know of any</p> <p>12 lawmakers except for Senator Bryan Hughes.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Do you know approximately how many</p> <p>15 lawmakers these employees spoke to?</p> <p>16 A I --</p> <p>17 MR. DISHER: Go ahead.</p> <p>18 THE WITNESS: I do not know of any</p> <p>19 lawmakers aside from Senator Bryan Hughes.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q And who are the employees that you either</p> <p>22 know of or at least heard of that spoke with Texas</p>	<p>52</p> <p>1 mind. Feel free to look it over and just let me</p> <p>2 know when you're ready.</p> <p>3 You good?</p> <p>4 A I am ready.</p> <p>5 Q I want to point you to the second-to-last</p> <p>6 sentence of paragraph 3 where it says: "Texans</p> <p>7 looking for a less moderated experience can use</p> <p>8 social media platforms like Parler, Gab, or Rumble."</p> <p>9 Do you see that there?</p> <p>10 A Yes, I see that there.</p> <p>11 Q Are you familiar with Parler, just</p> <p>12 generally, what it is?</p> <p>13 A Yes, I'm familiar with the existence of</p> <p>14 Parler as a social media platform where people can</p> <p>15 post content.</p> <p>16 Q Do you know if any of NetChoice's members</p> <p>17 currently do not allow Parler on their app store for</p> <p>18 users to download?</p> <p>19 MR. DISHER: Object to form.</p> <p>20 THE WITNESS: To the best of my</p> <p>21 knowledge, Parler is allowed on the Apple app store,</p> <p>22 and I do not know if it is allowed on the Google app</p>
<p>51</p> <p>1 legislators about HB20?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 Objection. Scope.</p> <p>4 THE WITNESS: To the best of my</p> <p>5 knowledge, the only employee to engage with</p> <p>6 Senator Bryan Hughes on HB20 is Steve DelBianco.</p> <p>7 BY MS. CORBELLO:</p> <p>8 Q Can you spell that last name for me?</p> <p>9 A D-E-L, capital B-I-A-N-C-O.</p> <p>10 Q Are there any other employees that you</p> <p>11 know of that either did or may have spoken to Texas</p> <p>12 legislators about HB20?</p> <p>13 MR. DISHER: Same objections.</p> <p>14 THE WITNESS: To the best of my</p> <p>15 knowledge, the only NetChoice employee to speak to a</p> <p>16 Texas legislator is Steve DelBianco.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Do you know if these communications</p> <p>19 between Mr. DelBianco and Senator Bryan Hughes were</p> <p>20 done over written communication at all?</p> <p>21 A I do not know that.</p> <p>22 Q Let's go to paragraph 3, if you don't</p>	<p>53</p> <p>1 store.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Would you be surprised to know that</p> <p>4 Google is currently blocking Parler from its app</p> <p>5 store?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 THE WITNESS: To the best of my</p> <p>8 knowledge, Parler is available on the Apple app</p> <p>9 store.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q I will represent to you that it is not.</p> <p>12 Are you aware that Google does not allow</p> <p>13 Parler on its app store?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 THE WITNESS: The Android operating</p> <p>16 system allows users to what is called sideload</p> <p>17 applications which enables them to add their own</p> <p>18 applications through services outside of the app</p> <p>19 store structure.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q My question's a little different. It's</p> <p>22 specifically about the app store.</p>

<p>54</p> <p>1 Are you aware that Google does not</p> <p>2 currently allow Parler on its app store?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: If Google does not allow</p> <p>5 Parler on its app store, it is part of its editorial</p> <p>6 discretion to make sure that the apps on its app</p> <p>7 store conform to its viewpoint.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q So you said "if."</p> <p>10 Does that mean, yes, you are aware of it,</p> <p>11 or am I the first one telling you this?</p> <p>12 MR. DISHER: Objection. Form.</p> <p>13 THE WITNESS: I was unaware that Parler</p> <p>14 was unavailable on the Google app store.</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q Same question looking for the same sort</p> <p>17 of answer.</p> <p>18 Are you aware that Amazon currently does</p> <p>19 not allow Parler on its app store?</p> <p>20 MR. DISHER: Objection. Form.</p> <p>21 THE WITNESS: I was unaware that Amazon</p> <p>22 allows [sic] Parler on its app store.</p>	<p>56</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 THE WITNESS: They do not need to be the</p> <p>3 primary function to be a social media platform.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q Okay. So based on the definition you</p> <p>6 just gave me for "social media platform," do you</p> <p>7 understand Gab to be a social media platform?</p> <p>8 A Yes.</p> <p>9 Q Are you aware that Gab is currently</p> <p>10 blocked from being present on the Google app store?</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: Gab is blocked on the</p> <p>13 Google app store as part of Google's efforts to</p> <p>14 engage in its editorial discretion to maintain an</p> <p>15 app store that conforms to its viewpoint under the</p> <p>16 First Amendment protections.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q So is it NetChoice's position that there</p> <p>19 is nothing wrong with Google lessening the</p> <p>20 accessibility of Gab or Parler to users?</p> <p>21 MR. DISHER: Objection. Form.</p> <p>22 Objection. Scope.</p>
<p>55</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q The next one you mentioned, Gab. Are you</p> <p>3 generally aware of what Gab is?</p> <p>4 A Gab, like Parler, is accessible on every</p> <p>5 Web browser where users can go, post comments, and</p> <p>6 review comments.</p> <p>7 Q So is Gab a social media platform?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: What's your differentiation</p> <p>10 of "social media platform"?</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Well, I guess I'm -- it says here in your</p> <p>13 declaration "can use social media platforms like</p> <p>14 Parler, Gab, or Rumble."</p> <p>15 So what's your definition of "social</p> <p>16 media platform"?</p> <p>17 A My definition of "social media platform"</p> <p>18 is a place where people can post comments and review</p> <p>19 comments in an online space.</p> <p>20 Q And do those two functions you just</p> <p>21 described have to be the primary function of the</p> <p>22 platform in order to be a social media platform?</p>	<p>57</p> <p>1 THE WITNESS: NetChoice's view is that</p> <p>2 private businesses can decide what is best for their</p> <p>3 users and their advertisers.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q Do you know how many users Google has?</p> <p>6 A I do not know exactly how many users</p> <p>7 Google has.</p> <p>8 Q Do you know an approximate number of</p> <p>9 users that Google has?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: I know that they have more</p> <p>12 than 50 million.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q So if Google, as I represent to you, is</p> <p>15 blocking Gab from its platforms, is it fair to say</p> <p>16 that the 50 million users that use Gab -- or that</p> <p>17 use Google are not being exposed to Gab on that</p> <p>18 platform?</p> <p>19 MR. DISHER: Objection. Form.</p> <p>20 THE WITNESS: No, that is not a fair</p> <p>21 statement.</p> <p>22</p>

<p>58</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Why not?</p> <p>3 MR. DISHER: Same objection.</p> <p>4 THE WITNESS: The platform is the Android</p> <p>5 device. The platform is connected devices. And</p> <p>6 with that, not only Android devices, but Android</p> <p>7 tablets, Chrome-based PCs all have the capability of</p> <p>8 accessing the Websites run by Gab.</p> <p>9 BY MS. CORBELLO:</p> <p>10 Q Fair enough. Let me limit it down a</p> <p>11 little bit.</p> <p>12 Is it fair to say that Google's</p> <p>13 50 million users, if, as I represent to you, Gab is</p> <p>14 not allowed on the app store, is it fair to say that</p> <p>15 those users do not have access to Gab as a</p> <p>16 downloadable app on the app store?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 THE WITNESS: As part of its editorial</p> <p>19 discretion, Google has chosen to not allow Gab for</p> <p>20 download as part of its right as a private business</p> <p>21 to engage in editorial and viewpoint expression</p> <p>22 under its rights from the First Amendment of the</p>	<p>60</p> <p>1 store?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: It is accurate to say that</p> <p>4 Google users -- actually, let me rephrase.</p> <p>5 It's accurate to say that the Gab app is</p> <p>6 not accessible on the Android app store.</p> <p>7 BY MS. CORBELLO:</p> <p>8 Q Are you aware that Apple currently blocks</p> <p>9 Gab from being a downloadable app on its app store?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: Yes, I am aware that Apple</p> <p>12 blocks Gab's app from being downloadable from the</p> <p>13 Apple app store.</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q And it's NetChoice's position that Apple</p> <p>16 is allowed to deny access to its users to Gab as an</p> <p>17 app in its app store?</p> <p>18 MR. DISHER: Objection. Form.</p> <p>19 Objection. Scope.</p> <p>20 THE WITNESS: Apple is not a member of</p> <p>21 NetChoice.</p> <p>22</p>
<p>59</p> <p>1 U.S. Constitution.</p> <p>2 MS. CORBELLO: I'm going to object as</p> <p>3 non-responsive.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q I want to be clear. My question is not</p> <p>6 why Google has denied access to Gab. My question is</p> <p>7 whether its 50 million users can access Gab on</p> <p>8 Google's platform currently.</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 THE WITNESS: As I answered previously,</p> <p>11 the Google platform is robust. There are many</p> <p>12 Google devices including --</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q I apologize.</p> <p>15 Did I say "platform"?</p> <p>16 A Yes.</p> <p>17 Q I apologize. I meant app store.</p> <p>18 MS. CORBELLO: Oh, God, I really don't</p> <p>19 want to ask this a third time.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q Is it true that Google's 50 million users</p> <p>22 currently cannot access the Gab app on Google's app</p>	<p>61</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Well, we'll strike that, then.</p> <p>3 Let's go to paragraph 4.</p> <p>4 If you need some time to look it over,</p> <p>5 let me know.</p> <p>6 MR. DISHER: Is this a good stop -- good</p> <p>7 point for our first break?</p> <p>8 MS. CORBELLO: Yeah. Sure.</p> <p>9 THE VIDEOGRAPHER: We are going off the</p> <p>10 record.</p> <p>11 This is the end of media unit number 1.</p> <p>12 The time is 4:17 p.m.</p> <p>13 (A recess was taken.)</p> <p>14 THE VIDEOGRAPHER: We are back on the</p> <p>15 record.</p> <p>16 This is the beginning of media unit</p> <p>17 number 2.</p> <p>18 The time is 4:30 p.m.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q So we were talking about paragraph 4.</p> <p>21 Paragraph 4 contains a list of</p> <p>22 NetChoice's members; right?</p>

<p style="text-align: right;">62</p> <p>1 A That is correct.</p> <p>2 Q Is this list in paragraph 4 current, or</p> <p>3 have any members been added or removed from this</p> <p>4 list?</p> <p>5 A To the best of my knowledge, this list is</p> <p>6 accurate.</p> <p>7 Q So when we were talking earlier about</p> <p>8 conversations with members regarding HB20, are these</p> <p>9 the members, this list here, who you were talking</p> <p>10 about?</p> <p>11 A When I use the term "NetChoice members,"</p> <p>12 I am referring to the members in this list.</p> <p>13 Q When those conversations with these</p> <p>14 members took place about HB20, did any of these</p> <p>15 members express opposition to bringing this lawsuit</p> <p>16 that we're all here for?</p> <p>17 A To the best of my knowledge, every member</p> <p>18 with whom we spoke to about HB20 raised concerns</p> <p>19 about how this law going into effect would impact</p> <p>20 their ability to engage an editorial discretion.</p> <p>21 Q Did any of these members ask NetChoice</p> <p>22 not to bring this lawsuit on their behalf?</p>	<p style="text-align: right;">64</p> <p>1 that at least YouTube, which is a subsidiary of</p> <p>2 Google, Facebook, and Twitter would be covered by</p> <p>3 HB20.</p> <p>4 Q A little while ago, you gave me your own</p> <p>5 definition of social media platform.</p> <p>6 Do you remember that?</p> <p>7 A I do remember giving you a definition of</p> <p>8 social media platform.</p> <p>9 Q Putting HB20 and its definition of social</p> <p>10 media platform aside for a second, which of these</p> <p>11 members listed in paragraph 4 do you believe fall</p> <p>12 under your definition of social media platform as</p> <p>13 you discussed it with me earlier?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 Go ahead.</p> <p>16 THE WITNESS: Airbnb, Alibaba, Amazon,</p> <p>17 AOL, DJI, DRN, eBay, Etsy, Expedia, Fluid Truck,</p> <p>18 Google, HomeAway, Lime, Nextdoor, Lyft, Oath,</p> <p>19 OfferUp, PayPal, Pinterest, StubHub, TikTok,</p> <p>20 TravelTech, Turo, Twitter, Verisign, Vrbo, Waymo,</p> <p>21 and Yahoo would all be covered under my definition</p> <p>22 of social media platform.</p>
<p style="text-align: right;">63</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 THE WITNESS: I believe answering the</p> <p>3 question would violate my NDA with these businesses.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q This list here in paragraph 4, which of</p> <p>6 these members does NetChoice contend will be</p> <p>7 affected by HB20?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 MS. CORBELLO: What's the basis of that</p> <p>10 objection, Todd?</p> <p>11 MR. DISHER: Calls for a legal</p> <p>12 conclusion.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Go ahead and answer.</p> <p>15 A Due to the vagaries of the definition of</p> <p>16 "social media" in HB20, many of the members listed</p> <p>17 here may or may not be covered.</p> <p>18 Likewise, because they must have</p> <p>19 50 million monthly active users, I cannot for</p> <p>20 certain tell you which of these members is or is not</p> <p>21 covered by HB20.</p> <p>22 Having said that, I can say certainly</p>	<p style="text-align: right;">65</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Did you mean to not mention Facebook in</p> <p>3 that list?</p> <p>4 A I did not -- I intended to mention</p> <p>5 Facebook in that list.</p> <p>6 Q I might have just missed it, but I just</p> <p>7 wanted to clarify.</p> <p>8 Facebook is a part of the list you just</p> <p>9 gave; right?</p> <p>10 A That is correct.</p> <p>11 MR. DISHER: And to clarify, you said</p> <p>12 "DJI"?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. DISHER: And this says "DII."</p> <p>15 THE WITNESS: That is a typo.</p> <p>16 MR. DISHER: Okay.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Oh, okay.</p> <p>19 MR. DISHER: Thank you.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q So the DII that comes after AOL in</p> <p>22 paragraph 4 is meant to say DJ, as in James, I?</p>

<p>66</p> <p>1 A Correct.</p> <p>2 Q I still don't know what it's --</p> <p>3 Do all of these members moderate their</p> <p>4 user-generated content in the same way?</p> <p>5 MR. DISHER: Objection. Form.</p> <p>6 THE WITNESS: These members engage in</p> <p>7 content moderation and their editorial discretion in</p> <p>8 the way that they see is best for promoting their</p> <p>9 viewpoints and the interests of their users and</p> <p>10 their advertisers.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q So is your answer, no, the members do not</p> <p>13 moderate content in the exact same way?</p> <p>14 A Members engage in their content</p> <p>15 moderation in ways that they think is best for their</p> <p>16 users, their advertisers, and promoting their</p> <p>17 viewpoints. Sometimes that content moderation will</p> <p>18 be similar; sometimes that content moderation will</p> <p>19 be different. Sometimes the methods of enforcement</p> <p>20 are similar; sometimes the methods of enforcement</p> <p>21 are different.</p> <p>22</p>	<p>68</p> <p>1 different enforcement mechanisms.</p> <p>2 Q So is the answer to my question, no, all</p> <p>3 of the members listed in paragraph 4 do not have the</p> <p>4 exact same content moderation policies?</p> <p>5 A To the best of my knowledge, the members</p> <p>6 listed in paragraph 4 engage in the content</p> <p>7 moderation they think is best for their users that</p> <p>8 express their viewpoints. And they maybe and</p> <p>9 sometimes are different.</p> <p>10 Q Do all of your members listed here in</p> <p>11 paragraph 4 use AI in any way -- we don't need to</p> <p>12 get into specifics -- but in any way to moderate</p> <p>13 content on their platforms?</p> <p>14 A Can you explain what do you mean by "AI"?</p> <p>15 Q Sure.</p> <p>16 Do any of these members have algorithms</p> <p>17 that interact with user-generated content once that</p> <p>18 content is generated in order to moderate the</p> <p>19 content for its platform?</p> <p>20 MR. DISHER: Objection. Form.</p> <p>21 THE WITNESS: Many of the members of</p> <p>22 NetChoice use algorithms written by their employees</p>
<p>67</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Do you understand which members are</p> <p>3 different from one another versus which members are</p> <p>4 similar?</p> <p>5 MR. DISHER: Objection. Form.</p> <p>6 THE WITNESS: You are speaking with</p> <p>7 regard to their engagement and content moderation?</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q Yes.</p> <p>10 A I am familiar with ways in which members</p> <p>11 are similar with regard to their content moderation</p> <p>12 and ways in which they are different with regard to</p> <p>13 their content moderation both in what they engage in</p> <p>14 content moderation as well as the manner in which</p> <p>15 they engage in content moderation.</p> <p>16 Q Do all of these members listed in</p> <p>17 paragraph 4 have the same policies regarding content</p> <p>18 moderation?</p> <p>19 A Members listed in paragraph 4 may have</p> <p>20 similar or same content moderation policies and</p> <p>21 enforcement mechanisms, and they may have similar --</p> <p>22 or different content moderation policies and</p>	<p>69</p> <p>1 and sometimes people they hire to enforce and engage</p> <p>2 in the content moderation decisions that are made in</p> <p>3 an effort to promote their editorial discretion and</p> <p>4 their viewpoints.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q Do any of the members exclusively use</p> <p>7 humans to review user-generated content?</p> <p>8 A I do not know.</p> <p>9 Q Do any of these members exclusively use</p> <p>10 AI or algorithms in order to review user-generated</p> <p>11 content?</p> <p>12 A I do not know.</p> <p>13 Q Have any of these members shared the</p> <p>14 substance of the algorithms we've been talking about</p> <p>15 with NetChoice?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 THE WITNESS: NetChoice members have</p> <p>18 shared with us the content moderation guidelines,</p> <p>19 the editorial discretion, and the viewpoints that</p> <p>20 they use in the creation and development of the</p> <p>21 algorithms.</p> <p>22</p>

<p>70</p> <p>1 MS. CORBELLO: Objection.</p> <p>2 Non-responsive.</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q My question is a little bit more specific</p> <p>5 than just overall views.</p> <p>6 The algorithms themselves that address</p> <p>7 and interact with user-generated content, have those</p> <p>8 algorithms been shared by any of NetChoice's members</p> <p>9 with NetChoice?</p> <p>10 A If such information were shared with</p> <p>11 NetChoice, they would be subject to our NDA.</p> <p>12 Q Have any of the members' source codes</p> <p>13 related to content moderation been shared with</p> <p>14 NetChoice?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: Think about the question.</p> <p>17 Can you repeat which source code you are</p> <p>18 describing, please?</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q When I say "source code," I mean the</p> <p>21 source codes that are used in order to provide data</p> <p>22 to algorithms in order to inform them or update them</p>	<p>72</p> <p>1 mean any data sets created by a programmer or an AI</p> <p>2 that then interacts with the algorithm in order to</p> <p>3 train it to either better recognize content it's</p> <p>4 supposed to moderate, differently recognize content</p> <p>5 it's supposed to moderate. Any training data sets</p> <p>6 that are used to train the algorithms and the</p> <p>7 content that they're -- it's moderating.</p> <p>8 A Any such disclosure will be subject to</p> <p>9 our NDA.</p> <p>10 Q Have any of NetChoice's members shared</p> <p>11 documentation with NetChoice related to content</p> <p>12 moderation?</p> <p>13 MR. DISHER: Objection. Form.</p> <p>14 THE WITNESS: NetChoice members have</p> <p>15 shared with NetChoice their community guidelines and</p> <p>16 their content moderation standards which are part of</p> <p>17 the terms of service and underlying agreements that</p> <p>18 users enter into when they sign up for the service.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q Maybe this will clarify my question a</p> <p>21 little bit. I'm sorry if it was vague.</p> <p>22 Have any of NetChoice's members shared</p>
<p>71</p> <p>1 on the type of content that these members are trying</p> <p>2 to moderate in order to comply with their policies.</p> <p>3 So when I say "source codes," those are the ones I'm</p> <p>4 talking about.</p> <p>5 Does that make it more clear?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: They have not provided</p> <p>9 source code to NetChoice.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q Have any of NetChoice's members provided</p> <p>12 their training data sets related to content</p> <p>13 moderation with NetChoice?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 THE WITNESS: Can you be more specific on</p> <p>16 training data sets?</p> <p>17 Who is the audience for which training</p> <p>18 data set?</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q The -- well, the audience, I guess, for</p> <p>21 lack of a better word, would be the algorithms.</p> <p>22 So when I say "training data sets," I</p>	<p>73</p> <p>1 its Wiki, Readme, or other similar documentation</p> <p>2 related to software utilized for content moderation</p> <p>3 with NetChoice?</p> <p>4 A No.</p> <p>5 Q Have any of NetChoice's members shared</p> <p>6 their workflow diagrams related to content</p> <p>7 moderation with NetChoice?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: NetChoice members have not</p> <p>10 shared with us their internal workflow on</p> <p>11 programming for content moderation.</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q Have NetChoice's members shared any</p> <p>14 external workflow diagrams related to content</p> <p>15 moderation with NetChoice?</p> <p>16 A NetChoice members have met with us -- or</p> <p>17 met with NetChoice several times to discuss how</p> <p>18 content moderation policies operate within their</p> <p>19 services.</p> <p>20 Q Go to paragraph 5 for me. It's on</p> <p>21 pages 3 and 4.</p> <p>22 Let me know when you're ready to talk</p>

<p style="text-align: right;">74</p> <p>1 about it.</p> <p>2 A Okay.</p> <p>3 Q I want to point you to -- it's on page 4,</p> <p>4 still on paragraph 5, subsection i there where you</p> <p>5 talk about --</p> <p>6 MR. DISHER: Page 3 of the document.</p> <p>7 THE WITNESS: Thank you.</p> <p>8 MR. DISHER: Page 4 is at the top here.</p> <p>9 THE WITNESS: Thank you.</p> <p>10 MR. DISHER: UCF pagination.</p> <p>11 MS. CORBELLO: Yeah. Sorry. I was</p> <p>12 trying to be helpful, but --</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Still on paragraph 5, subsection i where</p> <p>15 you mention NetChoice members "are open to the</p> <p>16 public, subject to their representative terms and</p> <p>17 conditions and community guidelines."</p> <p>18 Do you see that?</p> <p>19 A Yes, I see that.</p> <p>20 Q When you say they "are open to the</p> <p>21 public," what did you mean by that?</p> <p>22 A It means that they are accessible on</p>	<p style="text-align: right;">76</p> <p>1 different.</p> <p>2 Are you personally aware of each member's</p> <p>3 process for allowing a member of the public to</p> <p>4 become a user on its platform, or are there any</p> <p>5 members in that list that, sitting here today, you</p> <p>6 don't have knowledge of how that works?</p> <p>7 A I have knowledge for all NetChoice</p> <p>8 members of how members of the public can gain access</p> <p>9 to the underlying service.</p> <p>10 Q So let's use Facebook as an example.</p> <p>11 How does one become a user on Facebook?</p> <p>12 A Facebook users or potential Facebook</p> <p>13 users can visit Facebook through a myriad of sources</p> <p>14 whether through an application, visiting the</p> <p>15 website. On both they are presented with a terms of</p> <p>16 service or terms of use and a privacy policy. In</p> <p>17 order to access certain parts of that site and</p> <p>18 service, they must also expressly agree -- sorry.</p> <p>19 Let me rephrase that.</p> <p>20 By visiting that site, they agree to the</p> <p>21 terms of service which also include agreement to the</p> <p>22 community guidelines. These terms of service and</p>
<p style="text-align: right;">75</p> <p>1 websites and other devices and that some people may</p> <p>2 be able to sign up for their services subject to</p> <p>3 agreeing to the community guidelines which are the</p> <p>4 viewpoints and editorial discretion of those sites</p> <p>5 and services.</p> <p>6 Q Do you have personal knowledge of how</p> <p>7 each one of NetChoice's members permit the public to</p> <p>8 become users on their platforms?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 THE WITNESS: I am -- I have personal</p> <p>11 knowledge of several NetChoice members on how they</p> <p>12 allow users to access their platforms.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q I really don't want to ask you about all</p> <p>15 if you don't have the knowledge.</p> <p>16 Are there any members that you do not</p> <p>17 know how members of the public are able to access</p> <p>18 your members' platforms?</p> <p>19 A Virtually every single NetChoice member</p> <p>20 has a terms of service to which all users agree when</p> <p>21 they access the platform.</p> <p>22 Q I understand. My question's a little</p>	<p style="text-align: right;">77</p> <p>1 its subsidiary, the community guidelines, allow</p> <p>2 these platforms to engage in editorial discretion,</p> <p>3 in the case of Facebook, as well as promoting the</p> <p>4 viewpoints that are best for its users and its</p> <p>5 advertisers. This is a contract that users enter</p> <p>6 into with Facebook when they visit the website.</p> <p>7 Q What personal information does a member</p> <p>8 of the public have to provide Facebook when signing</p> <p>9 up for an account with Facebook?</p> <p>10 A Can you give me a definition of "personal</p> <p>11 information"?</p> <p>12 Q Well, we can go one by one.</p> <p>13 Does a member of the public have to</p> <p>14 provide their first and last name to Facebook as</p> <p>15 part of the process to sign up as a user?</p> <p>16 A Members of the public are required to</p> <p>17 provide their real name as part of the terms of</p> <p>18 service. Failure to do so is a violation of the</p> <p>19 contract with Facebook.</p> <p>20 Q Are users required to provide their</p> <p>21 birthdate as part of the process in signing up to be</p> <p>22 a user on Facebook?</p>

<p style="text-align: right;">78</p> <p>1 A No, users are not required to provide 2 their birth date to become a user on Facebook. 3 Q Other than providing their first and last 4 name and agreeing to the terms of service, what else 5 do users have to do, if anything, to become a user 6 on Facebook? 7 A Because it's changing regularly, to the 8 best of my knowledge, it can be either an email 9 address or possibly a phone number coupled with a 10 user-created password. 11 Q Any other information you can think of 12 that someone has to provide before becoming a 13 Facebook user? 14 A Not to my knowledge. 15 Q Once the information we just talked about 16 is provided and the terms of service are agreed to, 17 does a member of the public gain immediate access to 18 Facebook's platform? 19 A Define "Facebook's platform" for me, 20 please, because they have many different businesses. 21 Q Well, I guess the way I'm using it is in 22 its social media function.</p>	<p style="text-align: right;">80</p> <p>1 BY MS. CORBELLO: 2 Q Well, the content moderation policies 3 that Facebook has, you're aware of what those are; 4 right? 5 A Yes. 6 Q Those policies, are they applied to every 7 piece of user-generated content that comes to the 8 site regardless of who the user is that is 9 generating that content? 10 MR. DISHER: Object to form. 11 THE WITNESS: Facebook will use its 12 editorial discretion as well as its viewpoint to 13 decide what content is appropriate for its users, 14 its advertisers. 15 BY MS. CORBELLO: 16 Q My question's a little different. 17 When user-generated content comes to 18 Facebook -- I'm sure "comes to" is not the right 19 technical term. But when user-generated content is 20 generated, does Facebook apply its terms of service 21 and its community standards equally to that 22 user-generated content regardless of which user</p>
<p style="text-align: right;">79</p> <p>1 Did that clarify it? 2 A Users, once they have been authorized by 3 Facebook to access the site, may gain access to the 4 site subject to compliance with their agreement 5 which includes the terms of service and community 6 guidelines. 7 Q So what I'm hearing is is that once the 8 users gain access to the site after creating a user 9 account, they are, then, subject to the terms and 10 conditions and the content policies that Facebook 11 has in place; is that right? 12 A Users are subject to the terms of service 13 and privacy policies when they visit a Facebook 14 website. Those terms of service include, as a 15 subsidiary, the community guidelines. 16 Q Do you know whether those terms of 17 service and community guidelines are applied equally 18 across all users of Facebook? 19 MR. DISHER: Objection. Form. 20 THE WITNESS: Can you explain to me 21 "equally," please. 22</p>	<p style="text-align: right;">81</p> <p>1 generated that content? 2 A Facebook applies its community guidelines 3 in the ways that it best believes will promote its 4 viewpoint and its editorial content and -- or its 5 editorial discretion. 6 In doing so, it may promote some 7 viewpoints and demote others as part of its 8 editorial discretion as guaranteed under the 9 First Amendment. 10 Q So does Facebook do that promotion or 11 de-prioritization based on the user that created the 12 content, or is it based on the content itself? 13 A Facebook will remove content that 14 violates their community guidelines and community 15 standards. It will also select and promote content 16 that they think is best for that particular user or 17 most useful to that particular user. 18 Q Mr. Szabo, I desperately do not want to 19 ask the Court for more time and actually want to do 20 less than the four hours we've been granted. So I 21 very much ask you to focus on the question I'm 22 asking and answer it.</p>

<p style="text-align: right;">82</p> <p>1 My question is -- it goes to how Facebook</p> <p>2 is treating its content.</p> <p>3 Is it moderating its content pursuant to</p> <p>4 its content moderation policies because of the users</p> <p>5 that are generating that content, or is it</p> <p>6 moderating that content based on its community</p> <p>7 guidelines based on the content itself?</p> <p>8 Does that make sense?</p> <p>9 MR. DISHER: Objection. Form.</p> <p>10 THE WITNESS: Facebook will engage in</p> <p>11 content moderation based on the content of the</p> <p>12 publication and if it violates the community</p> <p>13 standards or community guidelines. It will also</p> <p>14 engage in content moderation when it sees users</p> <p>15 violating that type of community guidelines.</p> <p>16 So when users are known to abuse</p> <p>17 community guidelines, Facebook may choose to not</p> <p>18 publish their content.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q And those users who abuse the guidelines,</p> <p>21 are they treated in the same way regardless of who</p> <p>22 that user is --</p>	<p style="text-align: right;">84</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 THE WITNESS: Facebook's community</p> <p>3 guidelines, if they are applied differently to</p> <p>4 different users, is part of the editorial discretion</p> <p>5 and viewpoint of Facebook in its decision for what</p> <p>6 is best for its users, its advertisers, and the</p> <p>7 advancement of Facebook's viewpoint.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q So you used the word "if."</p> <p>10 Is your -- just to clarify: Is your</p> <p>11 testimony that Facebook might be discriminating</p> <p>12 against its users in applying its community</p> <p>13 guidelines differently, or you have personal</p> <p>14 knowledge that that is what they are currently</p> <p>15 doing?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 THE WITNESS: I do not have firsthand</p> <p>18 knowledge of any discriminatory application of</p> <p>19 Facebook's community guidelines against any user.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q Does Facebook share its algorithms with</p> <p>22 NetChoice, the algorithms that are applied to users</p>
<p style="text-align: right;">83</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q -- by Facebook?</p> <p>4 MR. DISHER: Objection. Form.</p> <p>5 THE WITNESS: Facebook will treat users</p> <p>6 in foreign nations differently than they treat users</p> <p>7 in the United States of America.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q Thanks for that clarification.</p> <p>10 So to be more specific, in the</p> <p>11 United States, will Facebook treat its users</p> <p>12 differently based on who that user is when they're</p> <p>13 violating Facebook's policies?</p> <p>14 A Due to its goal of promoting its</p> <p>15 editorial discretion and viewpoints, Facebook will</p> <p>16 sometimes treat an individual differently than a</p> <p>17 different user based on, for example, their status</p> <p>18 as a politician due to Facebook's editorial and</p> <p>19 viewpoint intent to promote political discussion.</p> <p>20 Q So Facebook's terms and conditions and</p> <p>21 community guidelines get applied differently to</p> <p>22 users based on who those users are?</p>	<p style="text-align: right;">85</p> <p>1 as they are creating Facebook accounts?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: Sorry. You lost me halfway</p> <p>4 through that question.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q Sure. Maybe I'll back up a little bit.</p> <p>7 Do you know if Facebook applies any sort</p> <p>8 of algorithms or human review to a user account</p> <p>9 once -- or immediately after a user has created that</p> <p>10 account --</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q -- in order to verify the legitimacy of</p> <p>14 the account -- the account or the illegitimacy of</p> <p>15 the account?</p> <p>16 MR. DISHER: Same objection.</p> <p>17 THE WITNESS: Facebook will analyze the</p> <p>18 legitimacy of a user creation to ensure and stop</p> <p>19 things like fraud, attempts to engage in criminal</p> <p>20 activity, and requests coming from known IP</p> <p>21 addresses of criminals.</p> <p>22</p>

<p style="text-align: right;">86</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q And does Facebook do that solely through</p> <p>3 human review?</p> <p>4 MR. DISHER: Objection. Form.</p> <p>5 THE WITNESS: Facebook uses a mixture of</p> <p>6 algorithmic activity written by Facebook employees</p> <p>7 and Facebook contractors to advance the community</p> <p>8 guidelines and viewpoints of Facebook as well as</p> <p>9 human review.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q And so -- sorry. Just to clarify. You</p> <p>12 said "to advance the community guidelines."</p> <p>13 Are you talking specifically about this</p> <p>14 topic, users gaining entry to Facebook and screening</p> <p>15 those users, are algorithms used for that purpose?</p> <p>16 A Algorithms are used alongside,</p> <p>17 potentially, human review when a user attempts to</p> <p>18 create a new account on Facebook to stop known bad</p> <p>19 actors and prevent spammers as well as fraudulent</p> <p>20 accounts.</p> <p>21 Q So now that we've kind of specified what</p> <p>22 algorithms we're talking about, those algorithms --</p>	<p style="text-align: right;">88</p> <p>1 That also continued at my work at the</p> <p>2 Electronic Software Association engaging in IP</p> <p>3 violations on social media platforms as well as my</p> <p>4 work at the Motion Picture Association in pursuing</p> <p>5 viol- -- IP violations of online platforms.</p> <p>6 It continued with my work as an attorney</p> <p>7 in private practice creating terms of service,</p> <p>8 privacy policy, interpreting community guidelines on</p> <p>9 services that include Facebook for clients, as well</p> <p>10 as more than a decade working at NetChoice and</p> <p>11 engaging, on a weekly basis, with most all NetChoice</p> <p>12 members to better understand how their specific</p> <p>13 systems work, how their programs are effectuated,</p> <p>14 and how they make the decisions that they do.</p> <p>15 This also includes analysis of their</p> <p>16 business models with regard to advertising and the</p> <p>17 impact that their editorial discretion and</p> <p>18 viewpoints have on their business.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q Can I -- can I ask: So for the current</p> <p>21 business models -- I assume you're intimately</p> <p>22 familiar with the current business models of your</p>
<p style="text-align: right;">87</p> <p>1 has Facebook shared those algorithms with NetChoice?</p> <p>2 A Facebook has not shared those algorithms</p> <p>3 with NetChoice.</p> <p>4 Q Go to paragraph 6 for me, and let me know</p> <p>5 when you're ready to talk about it.</p> <p>6 A Okay.</p> <p>7 Q So pointing to the second half of that</p> <p>8 first sentence in paragraph 6, it says: "So we are</p> <p>9 intimately familiar with the business models our</p> <p>10 members use and rely on to provide services to users</p> <p>11 and advertisers alike."</p> <p>12 Do you see that?</p> <p>13 A Yes, I see that.</p> <p>14 Q Okay. This intimate familiarity you have</p> <p>15 with your members' business models, can you describe</p> <p>16 to me how that familiarity came about?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 THE WITNESS: That familiarity was</p> <p>19 developed over decades of work in the internet</p> <p>20 ecosystem starting with my initial efforts as a</p> <p>21 computer science major at Rice University. Prior to</p> <p>22 that, I was a website programmer for NASA.</p>	<p style="text-align: right;">89</p> <p>1 members? Yes?</p> <p>2 A I'm intimately familiar with the business</p> <p>3 models of my members.</p> <p>4 Q As they currently stand?</p> <p>5 A Cor- -- as of the time of this</p> <p>6 declaration, yes.</p> <p>7 Q And as to these current business models</p> <p>8 of NetChoice's members, how are those current</p> <p>9 business models communicated to NetChoice?</p> <p>10 Is it -- are there meetings involved? Is</p> <p>11 it a written communication? Do they provide</p> <p>12 their -- some sort of report to NetChoice?</p> <p>13 MR. DISHER: Objection. Form.</p> <p>14 THE WITNESS: Before joining NetChoice,</p> <p>15 we speak with our members about what issues impact</p> <p>16 their business directly. As they continue their</p> <p>17 journey as NetChoice members, we continue to update</p> <p>18 ourselves on how changes in their business models</p> <p>19 are impacted by changes in the policy and legal</p> <p>20 landscape, and we are regularly informed by members</p> <p>21 of changes in their business model.</p> <p>22</p>

<p style="text-align: right;">90</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Are NetChoice's members required to</p> <p>3 inform of any updates to their business models?</p> <p>4 A NetChoice does not require members to</p> <p>5 provide updates, but members do because that is part</p> <p>6 of the benefit of being part of a trade association.</p> <p>7 Q Does NetChoice do any sort of independent</p> <p>8 investigation of what the members tell it inasmuch</p> <p>9 as how their business models work?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: NetChoice regularly reviews</p> <p>12 and studies changes in business practices of its</p> <p>13 members including reviewing things like transparency</p> <p>14 reports or community standards and community</p> <p>15 guidelines at length.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q So the two examples you just gave me,</p> <p>18 unless I'm mistaken, those are both documents or</p> <p>19 information that are created by the members</p> <p>20 themselves; right?</p> <p>21 MR. DISHER: Objection. Form.</p> <p>22 THE WITNESS: The community standards for</p>	<p style="text-align: right;">92</p> <p>1 A NetChoice regularly reviews, on its own,</p> <p>2 changes by members to their business model as well</p> <p>3 as changes to the business landscape.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q How are those changes communicated to</p> <p>6 NetChoice?</p> <p>7 MR. DISHER: Objection. Form.</p> <p>8 THE WITNESS: NetChoice members will</p> <p>9 contact NetChoice to inform us of changes in their</p> <p>10 business models.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Okay. I'm going to try this question</p> <p>13 again. I think I've made it clear, but I'll try one</p> <p>14 more time -- or maybe several other times.</p> <p>15 Aside from any data or information that</p> <p>16 NetChoice's members create and provide -- either</p> <p>17 provide to NetChoice or they simply create and</p> <p>18 NetChoice investigates it themselves, other than</p> <p>19 member-created information, does NetChoice do any</p> <p>20 investigation outside of that in order to determine</p> <p>21 what the business models of these members is?</p> <p>22 MR. DISHER: Objection. Form.</p>
<p style="text-align: right;">91</p> <p>1 each member that NetChoice reviews are the community</p> <p>2 standards created by that business as part of their</p> <p>3 editorial and viewpoint discretion.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q And the transparency reports you</p> <p>6 mentioned, are those the transparency reports that</p> <p>7 the members themselves create?</p> <p>8 A The transparency reports are created by</p> <p>9 several NetChoice members.</p> <p>10 Q So other than information created by the</p> <p>11 members -- or communicated by the members to</p> <p>12 NetChoice, does NetChoice do any independent</p> <p>13 investigation of the way in which the members'</p> <p>14 business models work?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: NetChoice regularly reviews</p> <p>17 and extrapolates changes in our members' business</p> <p>18 models as well as using our extensive knowledge to</p> <p>19 identify how business models may change in the</p> <p>20 future.</p> <p>21 BY MS. CORBELLO:</p> <p>22 Q So is the answer to my question "yes"?</p>	<p style="text-align: right;">93</p> <p>1 Go ahead.</p> <p>2 THE WITNESS: NetChoice regularly reviews</p> <p>3 writings by third parties on activities and business</p> <p>4 models of NetChoice members.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q When you say "writings," what do you mean</p> <p>7 by that?</p> <p>8 A These writings can take the form of</p> <p>9 books, exposés, investigative reporting, position</p> <p>10 papers, and analyses by third parties.</p> <p>11 Q Has NetChoice ever deactivated a member</p> <p>12 from membership of NetChoice?</p> <p>13 MR. DISHER: Objection. Scope.</p> <p>14 THE WITNESS: To the best of my</p> <p>15 knowledge, NetChoice has never -- and by</p> <p>16 "deactivated," I presume you mean kicked out or</p> <p>17 removed --</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q Uh-huh.</p> <p>20 A -- a member.</p> <p>21 Q Turning back to paragraph 6. The last</p> <p>22 sentence there talks about HB20 creating long-term</p>

<p style="text-align: right;">94</p> <p>1 adverse impacts when it comes to NetChoice's</p> <p>2 members' reputations.</p> <p>3 Do you see that?</p> <p>4 A Yes, I see that.</p> <p>5 You're referring to the phrase "would</p> <p>6 irreparably harm" when you say "adversely"?</p> <p>7 Q Yes -- sorry -- starting with "would</p> <p>8 irreparably harm our members and their business</p> <p>9 models by repelling users and advertisers and</p> <p>10 creating long-term adverse impacts when it comes to</p> <p>11 our members' reputation."</p> <p>12 Do you have personal knowledge as to how</p> <p>13 each one of NetChoice's members would be irreparably</p> <p>14 harmed were HB20 to go into effect?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: You're calling for me to</p> <p>17 speculate?</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q No.</p> <p>20 I'm asking do you have personal knowledge</p> <p>21 as to how each one of your members would be</p> <p>22 irreparably harmed were HB20 to go into effect.</p>	<p style="text-align: right;">96</p> <p>1 Will you be able to tell me that?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: I cannot give you the exact</p> <p>4 cost for each member as it will be different for</p> <p>5 each member. However -- and such costs include</p> <p>6 permanent and irreparable harm to brands which</p> <p>7 oftentimes does not have a clear financial number</p> <p>8 but can range anywhere from hundreds of thousands to</p> <p>9 millions to billions of dollars due to lost future</p> <p>10 revenue and lost immediate revenue.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q And as you sit here today, for each one</p> <p>13 of the members that you've listed, do you have any</p> <p>14 sort of approximation on that second cost figure you</p> <p>15 just talked about for any of them?</p> <p>16 MR. DISHER: Objection. Form.</p> <p>17 THE WITNESS: Due for the vagaries of</p> <p>18 HB20, I cannot for certain say which member will or</p> <p>19 will not be covered due to the vague definition of</p> <p>20 social media nor the requirement of 50 million</p> <p>21 active users.</p> <p>22</p>
<p style="text-align: right;">95</p> <p>1 If the answer is no, I do not want you to</p> <p>2 speculate.</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: If HB20 went into effect,</p> <p>5 based on prior actions of advertisers and users, we</p> <p>6 know that NetChoice members would be forced to host</p> <p>7 lawful but awful content including hate speech,</p> <p>8 self-harm, mutilation, abuse of animals, Nazi</p> <p>9 propaganda, holocaust denial, many other forms of</p> <p>10 speech that would be offensive to its users and its</p> <p>11 advertisers causing irreparable harm to the brands</p> <p>12 of those businesses along with the financial losses</p> <p>13 that they would see as a result of being required to</p> <p>14 host this horrible content.</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q So if I'm -- if I were to turn back to</p> <p>17 your list of members -- and I believe it was</p> <p>18 paragraph 4 -- and we go one by one, will you be</p> <p>19 able to tell me how each one of those members is</p> <p>20 irreparably harmed, how that irreparable harm comes</p> <p>21 about, and what it will cost each one of them once</p> <p>22 this irreparable harm takes place?</p>	<p style="text-align: right;">97</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Mr. Szabo, you just talked about a cost</p> <p>3 that you cannot define for several reasons. You</p> <p>4 said it could be, you know, hundreds of dollars,</p> <p>5 several million, billions. That's the number I'm</p> <p>6 talking about.</p> <p>7 If we go member by member, are you going</p> <p>8 to be able to give me what each member's</p> <p>9 approximation of what that cost is going to be?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: I cannot give you each</p> <p>12 member's direct impact because it is unclear whether</p> <p>13 they would be covered by HB20.</p> <p>14 For the members that are -- that would be</p> <p>15 covered, which include Facebook, Google, and</p> <p>16 Twitter, we know from prior experience when this</p> <p>17 type of offensive content was on one of these</p> <p>18 services, they lost hundreds of millions of dollars</p> <p>19 due to lost advertising revenue.</p> <p>20 It does not include, in that figure, the</p> <p>21 lost brand recognition and irreparable harm from the</p> <p>22 damage to the brand often gaining future advertisers</p>

<p>98</p> <p>1 and future users.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Let's take Twitter, for example, then.</p> <p>4 What is Twitter's estimated cost -- or</p> <p>5 loss of -- well, how do I want to ask this?</p> <p>6 What has Twitter estimated would be the</p> <p>7 cost associated with having to comply with HB20?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: I do not know what Twitter</p> <p>10 has estimated their costs to be.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q And with respect to just Twitter, what</p> <p>13 within their algorithms would have to change in</p> <p>14 order to comply with HB20 were it to go into effect?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: With respect to their</p> <p>17 algorithms, they would have to be reprogrammed in</p> <p>18 ways to allow for offensive content that is</p> <p>19 currently not allowed under the existing community</p> <p>20 standards, community guidelines, editorial</p> <p>21 discretion, and viewpoints of Twitter.</p> <p>22</p>	<p>100</p> <p>1 the Twitter site.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Has Twitter told NetChoice that it would</p> <p>4 have to hire programmers if HB20 were to go into</p> <p>5 effect?</p> <p>6 A Twitter has not told NetChoice that it</p> <p>7 would need to hire programmers if HB20 went into</p> <p>8 effect.</p> <p>9 Q When user-generated content is created</p> <p>10 and goes to any one of NetChoice member's platforms,</p> <p>11 do you understand that there's a process that takes</p> <p>12 place, whether a combination of AI and human, solely</p> <p>13 AI, solely human, in which that content is reviewed?</p> <p>14 Is that -- do we have the same</p> <p>15 understanding of how that works?</p> <p>16 A It will depend on the platform that we</p> <p>17 are talking about.</p> <p>18 Q When you say "it will depend," it'll</p> <p>19 depend how that content gets moderated by each</p> <p>20 platform?</p> <p>21 MR. DISHER: Objection. Form.</p> <p>22 THE WITNESS: Different platforms have</p>
<p>99</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q How would that reprogramming take place?</p> <p>3 A Twitter would be required to hire -- or</p> <p>4 use human labor to engage in reprogramming as well</p> <p>5 as attorneys to review new community guidelines to</p> <p>6 write and update new terms of service and could</p> <p>7 likely result in the -- or actually would result in</p> <p>8 the loss of users and advertisers.</p> <p>9 Q And what you just -- you just described,</p> <p>10 how much would this cost Twitter?</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: If Twitter were to retain</p> <p>13 an estimated 50 programmers, each of whom bill out,</p> <p>14 for assumption let's say \$1,000 an hour, you're</p> <p>15 already looking at \$50,000 per hour. If this takes</p> <p>16 200 hours, you're now looking at \$20 million for the</p> <p>17 programmers alone which does not include the</p> <p>18 requisite attorneys and other infrastructure</p> <p>19 necessary to implement this and also does not</p> <p>20 include the need to integrate their advertising</p> <p>21 division to speak with advertisers about the</p> <p>22 impending awful content that will soon be present on</p>	<p>101</p> <p>1 different content moderation procedures. Some</p> <p>2 engage in a top-down content moderation process;</p> <p>3 some engage in a bottom-up content moderation</p> <p>4 process; some have an exceptionally limited content</p> <p>5 moderation process.</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q Which of NetChoice's members permit users</p> <p>8 to moderate the content in any way that they do or</p> <p>9 do not want to see?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: In what ways are you saying</p> <p>12 content moderate?</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q Well, so Facebook, for example, a user</p> <p>15 accesses the -- what is it called? The blue site?</p> <p>16 I don't use Facebook.</p> <p>17 MR. MARCHESE: The main one?</p> <p>18 MS. CORBELLO: The main one.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q -- blue site.</p> <p>21 They have essentially what's called a</p> <p>22 news feed; correct?</p>

<p style="text-align: right;">102</p> <p>1 A Yes.</p> <p>2 Q Okay. Are users on Facebook able to</p> <p>3 moderate what they see in their news feed or what</p> <p>4 they don't want to see in their news feed in any</p> <p>5 way?</p> <p>6 A Users on Facebook can put requests in to</p> <p>7 not show again. And, likewise, as they use the</p> <p>8 site, the site will better identify what type of</p> <p>9 content the user is seeking.</p> <p>10 Simultaneously, Facebook will make its</p> <p>11 editorial discretion and advance its viewpoints as</p> <p>12 part of news feeds.</p> <p>13 MS. CORBELLO: Okay. I'm going to object</p> <p>14 as non-responsive for everything after "Facebook</p> <p>15 will make."</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q The abilities of the users on Facebook</p> <p>18 that you just described, let's now apply that to all</p> <p>19 its members.</p> <p>20 Do you know whether or not each one of</p> <p>21 NetChoice's members offer its users the ability to</p> <p>22 moderate the content that it does or does not see</p>	<p style="text-align: right;">104</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Not Alibabi. Their users.</p> <p>3 Do their users, when they log onto the</p> <p>4 site and they see this shopping -- I think you</p> <p>5 called it a shopping cart or shopping page -- do</p> <p>6 those users have any ability to modify or dictate</p> <p>7 what content they view?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 THE WITNESS: By using the site, users</p> <p>10 dictate what type of content will be shown to them</p> <p>11 as Alibaba seeks to provide the best results and the</p> <p>12 most likely products for that specific user.</p> <p>13 BY MS. CORBELLO:</p> <p>14 Q So how do users dictate what they see on</p> <p>15 the Alibaba site?</p> <p>16 A By using the site, Alibaba will identify</p> <p>17 what products are most likely to be appealing to</p> <p>18 that user.</p> <p>19 Q Can users choose to hide certain products</p> <p>20 on the Alibabi site that they don't want to see?</p> <p>21 A I do not know.</p> <p>22 Q Let's go to paragraph 9.</p>
<p style="text-align: right;">103</p> <p>1 somewhat in the same way that we just talked about</p> <p>2 with Facebook?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: Because of the diversity of</p> <p>5 the NetChoice membership, many NetChoice members do</p> <p>6 not have a news feed as you described. Alibaba or</p> <p>7 OfferUp are two examples of that.</p> <p>8 BY MS. CORBELLO:</p> <p>9 Q So when a user logs onto Alibaba, what do</p> <p>10 they see?</p> <p>11 A They would see a shopping center which</p> <p>12 involves content posted by sellers.</p> <p>13 Q Can a user of Alibaba -- do they have any</p> <p>14 discretion to dictate what that site looks like when</p> <p>15 they log on?</p> <p>16 A Alibaba will engage in its editorial</p> <p>17 discretion to decide and show what is best for its</p> <p>18 customers and present them with products that they</p> <p>19 think might be most appealing.</p> <p>20 MS. CORBELLO: Okay. I'm going to object</p> <p>21 as non-responsive.</p> <p>22</p>	<p style="text-align: right;">105</p> <p>1 Go ahead and just let me know when you're</p> <p>2 ready.</p> <p>3 A Okay.</p> <p>4 Q Paragraph 9 talks about the World</p> <p>5 Federation of Advertisers; right?</p> <p>6 A Yes.</p> <p>7 Q And is this paragraph meant to,</p> <p>8 essentially, summarize the World Federation of</p> <p>9 Advertisers' point of view of -- well, let me ask it</p> <p>10 this way: What are you trying to -- what</p> <p>11 information are you trying to summarize in</p> <p>12 paragraph 9?</p> <p>13 A Many NetChoice members' entire business</p> <p>14 model ultimately results from advertising revenue.</p> <p>15 The World Federation of Advertisers, which is a</p> <p>16 leading global trade association for the</p> <p>17 advertisers, makes clear that the presence of</p> <p>18 content that would be required to be hosted under</p> <p>19 HB20 on our member sites would result in a harm to</p> <p>20 advertisers and, likewise, a harm to the advertising</p> <p>21 ecosystem on which many NetChoice members rely for</p> <p>22 revenue.</p>

<p style="text-align: right;">106</p> <p>1 Q Are you aware that Facebook funds the</p> <p>2 World Federation of Advertisers?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 Objection. Scope.</p> <p>5 THE WITNESS: I did not know that.</p> <p>6 BY MS. CORBELLO:</p> <p>7 Q Are you aware that Google contributes to</p> <p>8 the World Federation of Advertisers financially?</p> <p>9 MR. DISHER: Same objections.</p> <p>10 THE WITNESS: No.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Are you aware that there -- the World</p> <p>13 Federation of Advertisers' website says, quote,</p> <p>14 Google and Facebook are a big part of the market</p> <p>15 estimated to take more than 75 percent of digital</p> <p>16 ads spent worldwide, unquote?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 THE WITNESS: Yes, I was aware.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q Does the fact that these two plat- -- or</p> <p>21 these two members take up this much digital ad space</p> <p>22 change your opinion at all about how willing</p>	<p style="text-align: right;">108</p> <p>1 that I mean the California Consumer Protection Act?</p> <p>2 A Yes.</p> <p>3 Q Okay. You said NetChoice was involved</p> <p>4 in -- well, scratch that.</p> <p>5 CCPA is in effect now; right?</p> <p>6 A CCPA took effect, yes.</p> <p>7 Q Do you know approximately when it took</p> <p>8 effect?</p> <p>9 A Approximately June of -- I believe it was</p> <p>10 2019, 2020.</p> <p>11 Q Once the CCPA took effect or just</p> <p>12 immediately prior to that happening, how did each</p> <p>13 one of NetChoice's members have to modify their</p> <p>14 practices to comply with that law?</p> <p>15 MR. DISHER: Objection. Scope.</p> <p>16 Objection. Form.</p> <p>17 THE WITNESS: Billions of dollars were</p> <p>18 spent on legal expenses to come into compliance with</p> <p>19 CCPA by NetChoice members.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q The legal costs were about compliance</p> <p>22 with CCPA?</p>
<p style="text-align: right;">107</p> <p>1 advertisers would be to abandon those sites?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 THE WITNESS: It does not change the</p> <p>4 willingness of advertisers to abandon those</p> <p>5 websites.</p> <p>6 MS. CORBELLO: Can we take a quick break?</p> <p>7 MR. DISHER: Sure.</p> <p>8 THE VIDEOGRAPHER: We are going off the</p> <p>9 record.</p> <p>10 This is the end of media unit number 2.</p> <p>11 The time is 5:29 p.m.</p> <p>12 (A recess was taken.)</p> <p>13 THE VIDEOGRAPHER: We are back on the</p> <p>14 record.</p> <p>15 This is the beginning of media unit</p> <p>16 number 3.</p> <p>17 The time is 5:38 p.m.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q Do you remember talking a little bit ago</p> <p>20 about the California Consumer Protection Act?</p> <p>21 A Yes.</p> <p>22 Q If I start saying "CCPA," can we agree</p>	<p style="text-align: right;">109</p> <p>1 Were any of those for litigation against</p> <p>2 CCPA?</p> <p>3 A To the best of my knowledge, no NetChoice</p> <p>4 member has brought litigation against CCPA.</p> <p>5 Q For any of those members, do you know why</p> <p>6 they have chosen to not bring a suit against CCPA?</p> <p>7 MR. DISHER: I will instruct the witness</p> <p>8 you may answer but not to the extent that it might</p> <p>9 disclose any conversations you've had with legal</p> <p>10 counsel.</p> <p>11 THE WITNESS: I do not know.</p> <p>12 BY MS. CORBELLO:</p> <p>13 Q Are any of your members currently not in</p> <p>14 compliance with the CCPA?</p> <p>15 MR. DISHER: Objection. Scope.</p> <p>16 Objection. Form.</p> <p>17 THE WITNESS: To the best of my</p> <p>18 knowledge, all NetChoice members comply with all</p> <p>19 applicable laws and regulations.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q And that includes CCPA?</p> <p>22 MR. DISHER: Same objection.</p>

<p>110</p> <p>1 THE WITNESS: To the best of my</p> <p>2 knowledge, all NetChoice members comply with CCPA.</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q Do any of NetChoice's members have to</p> <p>5 treat users in California differently than users in</p> <p>6 any other part of the United States as a result of</p> <p>7 CCPA being in effect?</p> <p>8 MR. DISHER: Objection. Form.</p> <p>9 Objection. Scope.</p> <p>10 THE WITNESS: The CCPA law requires</p> <p>11 NetChoice members to treat California residents in a</p> <p>12 way in compliance with that law.</p> <p>13 However, some NetChoice members may have</p> <p>14 been required, due to legal costs, technological</p> <p>15 challenges, to apply CCPA to all users.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q Are you aware of which members fall into</p> <p>18 the first category you're talking about, treating</p> <p>19 California users differently, versus members that</p> <p>20 fall into the second one in which they apply CCPA</p> <p>21 compliance across all users in the United States?</p> <p>22 MR. DISHER: Objection. Scope.</p>	<p>112</p> <p>1 MR. DISHER: Objection. Form.</p> <p>2 THE WITNESS: Discussion of such issues</p> <p>3 would violate an NDA that we have with our members.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q When, approximately, did you draft this</p> <p>6 declaration that's been marked as Defense Exhibit 1?</p> <p>7 A Are you asking when I began drafting?</p> <p>8 Q Sure. Let's start with that.</p> <p>9 When did you begin drafting this</p> <p>10 declaration, Defense Exhibit 1?</p> <p>11 A I began drafting this declaration,</p> <p>12 Exhibit 1, in September of 2021.</p> <p>13 Q Do you remember the approximate date that</p> <p>14 you started drafting it?</p> <p>15 A I do not recall.</p> <p>16 Q Was it early September 2021?</p> <p>17 A I do not recall.</p> <p>18 Q Who -- and I don't need to know the</p> <p>19 content of the discussions, but who did you speak</p> <p>20 with during the course of your drafting of this</p> <p>21 declaration, Defense Exhibit 1?</p> <p>22 A During the drafting of this declaration,</p>
<p>111</p> <p>1 THE WITNESS: I did not review that</p> <p>2 information prior to this deposition as such</p> <p>3 information is not addressed in my declaration.</p> <p>4 BY MS. CORBELLO:</p> <p>5 Q Are you able to identify what documents</p> <p>6 would provide you that information?</p> <p>7 A To identify that information, I would</p> <p>8 need to review the publicly available privacy</p> <p>9 policies of each NetChoice member to identify how</p> <p>10 they address compliance with CCPA.</p> <p>11 Q Is NetChoice currently involved in any</p> <p>12 activities aimed at getting rid of the CCPA?</p> <p>13 A NetChoice is not actively involved in any</p> <p>14 activities to get rid of the CCPA.</p> <p>15 Q Does NetChoice fund any other groups for</p> <p>16 the purpose of attempting to get rid of the CCPA?</p> <p>17 A NetChoice does not fund any other groups</p> <p>18 for purposes of repealing CCPA.</p> <p>19 Q Thank you. That was the word I was</p> <p>20 looking for.</p> <p>21 Are any of NetChoice's members actively</p> <p>22 working to repeal CCPA?</p>	<p>113</p> <p>1 this exhibit, I spoke with NetChoice in-house</p> <p>2 counsel and NetChoice outside counsel.</p> <p>3 Q Who else did you speak with?</p> <p>4 A Those are the only two individuals I</p> <p>5 spoke with in the drafting of this declaration.</p> <p>6 Q So between the time you started drafting</p> <p>7 this declaration and, it looks like,</p> <p>8 September 30th, when you signed the declaration,</p> <p>9 you spoke to both NetChoice in-house counsel and</p> <p>10 NetChoice outside counsel and no one else; is that</p> <p>11 right?</p> <p>12 A To the best of my knowledge, that is</p> <p>13 correct.</p> <p>14 Q The statements made in this declaration</p> <p>15 reflect your personal knowledge of the issues</p> <p>16 discussed; right?</p> <p>17 A That is correct.</p> <p>18 Q You produced documents that you consulted</p> <p>19 in drafting this declaration; right?</p> <p>20 A We produced documents that we used and</p> <p>21 consulted in drafting this declaration.</p> <p>22 Q When you say "we," who are you referring</p>

<p style="text-align: right;">114</p> <p>1 to?</p> <p>2 A NetChoice.</p> <p>3 Q And did you personally review each one of</p> <p>4 the documents that have been produced?</p> <p>5 A I reviewed the documents that were</p> <p>6 reviewed -- or -- sorry. I reviewed the documents</p> <p>7 that NetChoice produced in response to the ones used</p> <p>8 in the creation of this declaration.</p> <p>9 Q You reviewed every single one of the</p> <p>10 documents?</p> <p>11 A I reviewed the documents that were used</p> <p>12 and submitted in the creation of this declaration.</p> <p>13 Q Are there any documents that were</p> <p>14 produced that you did not personally review?</p> <p>15 A Not to my knowledge.</p> <p>16 Q Are there any documents outside of those</p> <p>17 that were already produced that you relied on when</p> <p>18 drafting this declaration?</p> <p>19 A Not to my knowledge.</p> <p>20 Q Your declaration discusses the various</p> <p>21 burdens that will -- that your members will suffer</p> <p>22 should HB20 go into effect. Is that fair?</p>	<p style="text-align: right;">116</p> <p>1 content moderation.</p> <p>2 BY MS. CORBELLO:</p> <p>3 Q Just to clarify, this loss of inability</p> <p>4 to stop bad actors, is this not contained in your</p> <p>5 declaration currently?</p> <p>6 Is this an example you're giving me of</p> <p>7 irreparable harm that you did not provide within the</p> <p>8 declaration?</p> <p>9 A This is an example of an irreparable harm</p> <p>10 that is not explicitly stated in the declaration but</p> <p>11 is part of the greater irreparable harm that will be</p> <p>12 faced by NetChoice members.</p> <p>13 Q Okay. So other than this loss of</p> <p>14 inability to stop bad actors, what are all of the</p> <p>15 other specific irreparable harms that have not</p> <p>16 already been identified in the declaration that</p> <p>17 NetChoice's members will suffer if HB20 goes into</p> <p>18 effect?</p> <p>19 A One of the irreparable harms that is</p> <p>20 alluded to but not specifically called out in the</p> <p>21 declaration is enabling bad actors such as spammers,</p> <p>22 hate-speech mongers, Neo-Nazis, Holocaust deniers to</p>
<p style="text-align: right;">115</p> <p>1 A Our declaration discusses the irreparable</p> <p>2 harms that our members will suffer if HB20 goes into</p> <p>3 effect as part of the overall statements in the</p> <p>4 declaration.</p> <p>5 Q Does your declaration provide all of the</p> <p>6 irreparable harms that NetChoice contends will</p> <p>7 befall its members if HB20 goes into effect?</p> <p>8 A Given that that will require me to make</p> <p>9 speculations about all possible things, that was not</p> <p>10 necessarily included in our declaration.</p> <p>11 However, we did include in our</p> <p>12 declaration clear irreparable harms that our members</p> <p>13 will face if HB20 goes into effect.</p> <p>14 Q As you sit here today, are there any</p> <p>15 specific irreparable harms that you know of that are</p> <p>16 not included somewhere in this declaration?</p> <p>17 MR. DISHER: Objection. Form.</p> <p>18 THE WITNESS: So one irreparable harm, as</p> <p>19 an example, that would be incurred would be a loss</p> <p>20 of inability to stop bad actors from posting content</p> <p>21 on member services due to the mandated disclosure of</p> <p>22 proprietary ways that NetChoice members engage in</p>	<p style="text-align: right;">117</p> <p>1 know ways to circumvent the values and content</p> <p>2 moderation standards and editorial discretion of</p> <p>3 NetChoice members.</p> <p>4 Q What other specific irreparable harms did</p> <p>5 you not discuss in your declaration?</p> <p>6 A That is all that I can think of right</p> <p>7 now.</p> <p>8 Q Is there a reason that you did not</p> <p>9 specify these two irreparable harms we just talked</p> <p>10 about within your declaration?</p> <p>11 MR. DISHER: I'll instruct the witness</p> <p>12 not to answer to the extent it discloses any</p> <p>13 communications you've had with counsel.</p> <p>14 Other than that, please go ahead and</p> <p>15 answer.</p> <p>16 THE WITNESS: On advice of my counsel, I</p> <p>17 will not answer.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q Your declaration discusses broadly your</p> <p>20 members' content moderation practices and how those</p> <p>21 may be affected by HB20; is that correct?</p> <p>22 A That is correct, in broad descriptions of</p>

<p style="text-align: right;">118</p> <p>1 how HB20 will impact the ability of NetChoice 2 members to express their values and their editorial 3 discretion. 4 Q So specifically as to the ways in which 5 HB20 will impact NetChoice's members' content 6 moderation abilities or policies, is there 7 anything -- are any of those impacts not discussed 8 within this disclosure? 9 MR. DISHER: Objection. Form. 10 THE WITNESS: Sorry. Can you -- is this 11 substantially different from the prior question? 12 BY MS. CORBELLO: 13 Q No. It's essentially the burden's 14 question but as to the impacts on content -- the 15 ability to moderate content. 16 MR. DISHER: Objection. Form. 17 THE WITNESS: By forcing NetChoice 18 members to engage in detailed descriptions of 19 certain content moderation practices, it will, in 20 part, impede the ability to adapt to new threats 21 that violate the values and editorial discretion of 22 NetChoice members. It will simultaneously empower</p>	<p style="text-align: right;">120</p> <p>1 disclosure a moment ago; right? 2 MR. DISHER: Objection. Form. 3 THE WITNESS: Yes. 4 BY MS. CORBELLO: 5 Q So my question's a little different. 6 Maybe -- well, let me give you an example. 7 There's discussion in this declaration 8 about how maybe the algorithms might have to change 9 that are used to moderate content because of the way 10 in which HB20 will affect these -- the members; is 11 that right? 12 A That is correct. 13 Q So that is one way in which HB20 will be 14 affecting members' content moderation practices in 15 that they will have to modify what their content 16 moderation algorithms currently look like; is that 17 right? 18 A Under HB20, NetChoice members will be 19 required to change content moderation practices, 20 which include computer and human review, in ways 21 that violate their values and their editorial 22 discretion and in ways that they do not view as best</p>
<p style="text-align: right;">119</p> <p>1 bad actors whose viewpoints, values, and 2 editorial -- and opinions do not match those of 3 NetChoice members. 4 BY MS. CORBELLO: 5 Q Does your declaration contain all the 6 ways in which HB20 will impact NetChoice's members 7 in regards to their content moderation practices and 8 policies? 9 MR. DISHER: Objection. Form. 10 THE WITNESS: It is -- it does not cover 11 all the myriad of costs and harms and irreparable 12 harms that will befall NetChoice members when they 13 lose the ability to express their values -- 14 BY MS. CORBELLO: 15 Q Well -- 16 A -- and their -- 17 Q Okay. 18 A -- editorial discretion in the way that 19 is best for their users and their advertisers as 20 guaranteed under the First Amendment. 21 Q Well -- so we've talked about the 22 irreparable harms that were missing from your</p>	<p style="text-align: right;">121</p> <p>1 for their values, their users, and their 2 advertisers. 3 Q Are there any other ways in which HB20 4 will impact -- let's start with will impact the 5 content moderation practices of each one of 6 NetChoice's members that are -- that is not 7 contained in this declaration? 8 MR. DISHER: Objection. Form. 9 THE WITNESS: The ways that HB20 will 10 create irreparable harm in the content moderation 11 manner that NetChoice members engage in that is not 12 included in this declaration as stated in 13 paragraph 20 when we state that the non-exclusive 14 list of harmful and offensive content is clear that 15 there is much more, such as abuse of animals, such 16 as Holocaust denial, neither of which were included 17 in the non-exclusive list listed in paragraph 20. 18 MS. CORBELLO: I'm going to object as 19 non-responsive. 20 BY MS. CORBELLO: 21 Q We'll talk about paragraph 20 since you 22 referred to it.</p>

<p style="text-align: right;">122</p> <p>1 Right before that list, it says:</p> <p>2 "NetChoice members would be forced to host harmful</p> <p>3 and offensive content"; right?</p> <p>4 A That is what the declaration says.</p> <p>5 Q And so you are attesting that one of the</p> <p>6 ways in which HB20's policies will affect the way in</p> <p>7 which the members moderate content is that it will</p> <p>8 require them to host harmful and offensive content.</p> <p>9 Is that fair?</p> <p>10 A The declaration states that NetChoice</p> <p>11 members will be forced to host harmful and offensive</p> <p>12 content including, but not limited to --</p> <p>13 Q You don't need to read the list again.</p> <p>14 A Okay.</p> <p>15 Q I'm really trying to get us out of here.</p> <p>16 Do NetChoice members currently host</p> <p>17 harmful and offensive content?</p> <p>18 MR. DISHER: Objection. Form.</p> <p>19 BY MS. CORBELLO:</p> <p>20 Q Or is this a change that will have to</p> <p>21 occur as a result of HB20?</p> <p>22 MR. DISHER: Same objection.</p>	<p style="text-align: right;">124</p> <p>1 Are you with me on that?</p> <p>2 A HB20 modifies the values and editorial</p> <p>3 decisions of NetChoice members which are reflected</p> <p>4 in the ways that they engage in content moderation.</p> <p>5 Q Where it says "NetChoice members would be</p> <p>6 forced to host harmful and offensive content," you</p> <p>7 are saying that that is because of the provisions</p> <p>8 within HB20 and -- were they to go into effect?</p> <p>9 Is that what you're attempting to say in</p> <p>10 that sentence?</p> <p>11 A In the last sentence in paragraph 20, we</p> <p>12 are making clear that, under HB20, NetChoice members</p> <p>13 will be forced to host harmful and offensive content</p> <p>14 including, but not limited to, racial epithets, Nazi</p> <p>15 anti-Semitism --</p> <p>16 Q I promise you, you don't need to read</p> <p>17 them over.</p> <p>18 So would you agree with me that you -- in</p> <p>19 this sentence, you are providing one way in which</p> <p>20 you contend HB20's provisions are going to alter the</p> <p>21 way in which members moderate content, or are you</p> <p>22 saying that this is the only way in which HB20's</p>
<p style="text-align: right;">123</p> <p>1 Go ahead.</p> <p>2 THE WITNESS: NetChoice members expend</p> <p>3 millions of dollars to ensure that harmful and</p> <p>4 offensive content, as listed in paragraph 20, does</p> <p>5 not appear on its site and does so to the best of</p> <p>6 their ability.</p> <p>7 BY MS. CORBELLO:</p> <p>8 Q And HB- -- is it NetChoice's position</p> <p>9 that HB20 requires harmful and offensive content to</p> <p>10 be posted on these members' platforms?</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: HB20 will require NetChoice</p> <p>13 members to host harmful and offensive content</p> <p>14 including, but not limited to --</p> <p>15 BY MS. CORBELLO:</p> <p>16 Q You really don't need to read the list</p> <p>17 over again. I promise.</p> <p>18 So what you just discussed, is one of the</p> <p>19 ways -- getting back to my original question. Is</p> <p>20 one of the ways in which HB20 modifies the practices</p> <p>21 of NetChoice's members insomuch as they relate to</p> <p>22 content moderation?</p>	<p style="text-align: right;">125</p> <p>1 provisions are going to alter the way members</p> <p>2 moderate content?</p> <p>3 A We are using, in this last sentence in</p> <p>4 paragraph 20, an illustrative list that is</p> <p>5 including, but not limited to --</p> <p>6 Q I'm not talking about the list.</p> <p>7 A -- those listed to explain the types of</p> <p>8 loss of values and editorial discretion the</p> <p>9 NetChoice members will be faced with if HB20 came</p> <p>10 into effect.</p> <p>11 Q So one example?</p> <p>12 MR. DISHER: Objection. Form.</p> <p>13 THE WITNESS: One example of what?</p> <p>14 BY MS. CORBELLO:</p> <p>15 Q Well, I'm trying to get my original</p> <p>16 question asked and answered.</p> <p>17 NetChoice's members would be forced to</p> <p>18 host harmful and offensive content. Is that one</p> <p>19 example?</p> <p>20 I'm not asking about the list but the</p> <p>21 broader statement of having to host harmful and</p> <p>22 offensive content. Is that one example of the way</p>

<p style="text-align: right;">126</p> <p>1 in which HB20's provisions are going to impact</p> <p>2 NetChoice's members' content moderation practices or</p> <p>3 is it the only way?</p> <p>4 A It is one way in which HB20 will cause</p> <p>5 irreparable harm to NetChoice members.</p> <p>6 Q I didn't ask about irreparable harm. I</p> <p>7 asked about a modification of content moderation</p> <p>8 practices.</p> <p>9 Can you answer the question as it relates</p> <p>10 to that?</p> <p>11 A HB20 will have other impacts than those</p> <p>12 listed for harmful and offensive content when it</p> <p>13 takes effect for NetChoice members.</p> <p>14 MS. CORBELLO: Can you read out my</p> <p>15 original question again, please.</p> <p>16 (Whereupon, the requested question</p> <p>17 was</p> <p>18 read back.)</p> <p>19 THE WITNESS: So the example listed in</p> <p>20 the last sentence of paragraph 20 is one example of</p> <p>21 the type of impact to content moderation practices</p> <p>22 that HB20 will have --</p>	<p style="text-align: right;">128</p> <p>1 declaration?</p> <p>2 MR. DISHER: Objection. Form.</p> <p>3 MS. CORBELLO: What's the basis of the</p> <p>4 objection, Todd?</p> <p>5 MR. DISHER: It calls for a legal</p> <p>6 conclusion about how HB20 is going to take effect,</p> <p>7 what its provisions --</p> <p>8 MS. CORBELLO: I'm asking what he hasn't</p> <p>9 said in his own declaration.</p> <p>10 MR. DISHER: And the effects of HB20</p> <p>11 depend on interpreting the often-vague provisions of</p> <p>12 HB20 as a matter of law.</p> <p>13 To the --</p> <p>14 MS. CORBELLO: So is the sentence in</p> <p>15 paragraph 20 a legal conclusion, then?</p> <p>16 MR. DISHER: To the extent that he can</p> <p>17 answer the question, go ahead.</p> <p>18 To the extent it calls for a legal</p> <p>19 conclusion -- he's not here to testify as a lawyer</p> <p>20 about what NetChoice's legal positions are in the</p> <p>21 case. But to the extent you have factual knowledge</p> <p>22 or can answer the question as a matter of fact,</p>
<p style="text-align: right;">127</p> <p>1 BY MS. CORBELLO:</p> <p>2 Q Okay.</p> <p>3 A -- on NetChoice members.</p> <p>4 Q Now, taking the understanding that we</p> <p>5 were talking about ways in which NetChoice's members</p> <p>6 will be impacted in the way that they are able to</p> <p>7 moderate content, are there any other specific ways</p> <p>8 in which HB20 will impact NetChoice members' content</p> <p>9 moderation practices that are not discussed in your</p> <p>10 declaration?</p> <p>11 MR. DISHER: Objection. Form.</p> <p>12 THE WITNESS: Yes, there are other ways</p> <p>13 that NetChoice members will be impacted in content</p> <p>14 moderation practices that are not described in the</p> <p>15 last sentence of paragraph 20.</p> <p>16 BY MS. CORBELLO:</p> <p>17 Q I didn't ask solely about the last</p> <p>18 sentence of paragraph 20.</p> <p>19 In the entirety of your declaration,</p> <p>20 which ways in which HB20 will impact specifically</p> <p>21 NetChoice members' content moderation practices are</p> <p>22 not already contained in the entirety of your</p>	<p style="text-align: right;">129</p> <p>1 please, by all means.</p> <p>2 THE WITNESS: In addition to being forced</p> <p>3 to host the content described in the last sentence</p> <p>4 of paragraph 20, NetChoice members will have to work</p> <p>5 with -- sorry -- some NetChoice members will be</p> <p>6 required to work with human reviewers to update them</p> <p>7 to new content moderation practices specifically</p> <p>8 forcing them to host the harmful and offensive</p> <p>9 content including, but not limited to, the</p> <p>10 content --</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Please don't. Please, you don't need to</p> <p>13 read them out.</p> <p>14 A -- in the last sentence of paragraph 20.</p> <p>15 Q Thank you.</p> <p>16 And so this one example you just gave,</p> <p>17 that's not contained in your declaration currently?</p> <p>18 The having to -- I think you said interact with</p> <p>19 human programmers?</p> <p>20 A It is not expressly stated in the</p> <p>21 declaration.</p> <p>22 Q What are the other ways in which HB20</p>

<p style="text-align: right;">130</p> <p>1 will impact the members' content moderation 2 practices that are not stated in the declaration 3 already? 4 A One of the ways that members' content 5 moderation practices will be impacted that is not 6 stated in the declaration include the changes to the 7 way the advertising division works with its 8 customers to make them aware that harmful and 9 offensive content will become present on NetChoice 10 members' platforms. 11 Q Does every one of NetChoice members have 12 an ad division? 13 A Can you give me a definition of 14 "advertising division," please? 15 Q You used the term first. So however 16 you -- whatever you believe that term encompasses. 17 A All NetChoice members engage in 18 advertising. 19 Q That wasn't my question. 20 Do all -- do all NetChoice members have a 21 specific ad division within their company? 22 A To the best of my knowledge, every</p>	<p style="text-align: right;">132</p> <p>1 would require me to engage in speculation and 2 drawing legal conclusions which are beyond the scope 3 of the purpose of this deposition and limited to 4 what is included in this declaration. 5 Q Well, your declaration talks about the 6 ways in which HB20 will impact your members' 7 abilities to engage in content moderation; right? 8 A My declaration discusses ways in which my 9 members will be impacted by HB20 and in ways in 10 which the content moderation decisions of my members 11 will be impacted by HB20. 12 Q So yes? 13 A To? 14 Q My original question. 15 A My declaration outlines ways in which 16 NetChoice members will have to engage in harm -- 17 irreparable -- sorry. My declaration explains how 18 NetChoice members will suffer irreparable harm and 19 have to engage in -- as they engage in content 20 moderation changes due to HB20. 21 MS. CORBELLO: Objection. 22 Non-responsive.</p>
<p style="text-align: right;">131</p> <p>1 NetChoice members -- every NetChoice member has a 2 division within its business that engages in 3 advertising. 4 Q Okay. What are the other ways in which 5 HB20 will affect the members' content moderation 6 practices that are not already contained in your 7 declaration? 8 MR. DISHER: Objection. Form. 9 THE WITNESS: At this point, what I would 10 say will be speculative and potentially require me 11 to reach a legal conclusion which the vagaries of 12 HB20, its definitions and its requirements for 13 applicability, would demand, and I do not have that 14 power to do that right now for purposes of this 15 declaration and deposition. 16 BY MS. CORBELLO: 17 Q So just to be clear, as you sit here 18 today, you don't have any other specific ways in 19 which HB20 impacts NetChoice's members' ability to 20 moderate content other than what we've already 21 discussed? 22 A Beyond what we have already discussed</p>	<p style="text-align: right;">133</p> <p>1 BY MS. CORBELLO: 2 Q You just told me a moment ago that any 3 other ways in which HB20 impacts NetChoice's members 4 and the ways in which they moderate content you 5 cannot provide because it would be speculative, and 6 it would require you to reach a legal conclusion. 7 Is that accurate? 8 MR. DISHER: Objection. Form. 9 THE WITNESS: I previously stated that 10 further examples of irreparable harm of content 11 moderation that NetChoice members would suffer due 12 to HB20 would require me to be speculative and reach 13 a legal conclusion. 14 BY MS. CORBELLO: 15 Q So based on that, is it fair to say that 16 you do have other ways in which you believe, even 17 based on a speculative reasoning, that HB20 will 18 impact NetChoice's members' content moderation 19 practices, but you are not going to disclose those 20 ways for the reasons you stated? 21 MR. DISHER: Objection. Form. 22 THE WITNESS: Doing so would -- to make</p>

<p style="text-align: right;">134</p> <p>1 such an assertion would require me to be -- to</p> <p>2 engage in speculation and/or make a legal conclusion</p> <p>3 which is beyond the scope of my declaration and the</p> <p>4 purpose of this deposition.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q I'll keep asking it.</p> <p>7 Do you either have more ways in which</p> <p>8 HB20 will -- will affect your members' ability to</p> <p>9 moderate content and you are not providing it for</p> <p>10 the reasons you discussed, or do you not have any</p> <p>11 other specific ways and you're simply not providing</p> <p>12 them because you don't have them?</p> <p>13 MR. DISHER: Objection. Form.</p> <p>14 THE WITNESS: To identify other ways</p> <p>15 NetChoice members will be irreparably harmed in</p> <p>16 their content moderation decisions, which include</p> <p>17 their choice of editorial activities and advancing</p> <p>18 their values, would require me to engage in</p> <p>19 speculation and/or draw a legal conclusion.</p> <p>20 BY MS. CORBELLO:</p> <p>21 Q So as you sit here today, you have more</p> <p>22 ways in which HB20 will affect your members' content</p>	<p style="text-align: right;">136</p> <p>1 (Whereupon, the last question was</p> <p>2 read back.)</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: I am unable to provide the</p> <p>5 other ways in which NetChoice members will be</p> <p>6 adversely impacted and irreparably harmed in their</p> <p>7 content moderation decisions because such activity</p> <p>8 would be speculative and/or require me to reach a</p> <p>9 legal conclusion.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q I don't need you to tell me why you</p> <p>12 cannot provide the reasons or the ways in which HB20</p> <p>13 impacts members' content moderation practices. I</p> <p>14 simply need you to respond to whether or not you</p> <p>15 currently have more ways -- as you sit here today</p> <p>16 and are thinking about it, you know of more ways in</p> <p>17 which HB20 would impact its members in terms of</p> <p>18 content moderation but are not providing them.</p> <p>19 MR. DISHER: Objection. Form.</p> <p>20 THE WITNESS: To answer that question, it</p> <p>21 would require two different answers because it's</p> <p>22 very close to a compound question going to my</p>
<p style="text-align: right;">135</p> <p>1 moderation practices, but you are not going to</p> <p>2 provide them. Is that accurate? Yes or no?</p> <p>3 MR. DISHER: Objection. Form.</p> <p>4 THE WITNESS: The other ways in which</p> <p>5 NetChoice members would be irreparably harmed due to</p> <p>6 their content moderation decisions required under</p> <p>7 HB20 would be either a legal conclusion or require</p> <p>8 speculation.</p> <p>9 MS. CORBELLO: Objection.</p> <p>10 Non-responsive.</p> <p>11 BY MS. CORBELLO:</p> <p>12 Q Mr. Szabo, do you need the court reporter</p> <p>13 to read it back to you, or can you please provide a</p> <p>14 responsive answer?</p> <p>15 MR. DISHER: Objection. Form.</p> <p>16 THE WITNESS: Could you read back the</p> <p>17 question, please.</p> <p>18 Thank you.</p> <p>19 MR. MARCHESE: If I could jump in?</p> <p>20 No.</p> <p>21 MS. CORBELLO: Huh?</p> <p>22</p>	<p style="text-align: right;">137</p> <p>1 mens rea. So if you'd like to rephrase the question</p> <p>2 into two parts, we can maybe answer it that way.</p> <p>3 MS. CORBELLO: I'm going to object as</p> <p>4 non-responsive.</p> <p>5 BY MS. CORBELLO:</p> <p>6 Q As you sit here today, is there anything</p> <p>7 that you want to tell me that is not contained in</p> <p>8 your declaration in regards to HB20 and its effects</p> <p>9 on -- on NetChoice's members?</p> <p>10 MR. DISHER: Objection. Form.</p> <p>11 THE WITNESS: There is nothing that I</p> <p>12 want to tell you today with -- that has not already</p> <p>13 been stated with regard to the impact and</p> <p>14 irreparable harm NetChoice members will suffer to</p> <p>15 their content moderation decisions, their values,</p> <p>16 and their ability to engage in editorial discretion</p> <p>17 that I have not yet shared with you today.</p> <p>18 BY MS. CORBELLO:</p> <p>19 Q As you sit here today, is there anything</p> <p>20 you can think of that you left out of this</p> <p>21 declaration, Defense Exhibit 1?</p> <p>22 MR. DISHER: Objection. Form.</p>

<p style="text-align: right;">138</p> <p>1 THE WITNESS: There's much information</p> <p>2 that is not included in Exhibit 1.</p> <p>3 BY MS. CORBELLO:</p> <p>4 Q This "much information" you referred to,</p> <p>5 why is it not included in your declaration?</p> <p>6 MR. DISHER: Objection. Form.</p> <p>7 THE WITNESS: There's lots of information</p> <p>8 that is not pertinent to this case, that is</p> <p>9 irrelevant, that is in existence, that is not</p> <p>10 included in the declaration.</p> <p>11 However, the declaration itself is a</p> <p>12 fully formed legal filing that NetChoice has</p> <p>13 produced that shows the NetChoice members will</p> <p>14 suffer irreparable harm and lose the ability to</p> <p>15 engage in editorial discretion and express their</p> <p>16 values if HB20 is allowed to take effect.</p> <p>17 BY MS. CORBELLO:</p> <p>18 Q Is there anything that you left out of</p> <p>19 your declaration that you meant to include?</p> <p>20 A Anything that is or is not included is</p> <p>21 subject to the discussions of myself and my</p> <p>22 attorneys.</p>	<p style="text-align: right;">140</p> <p>1 We are off the record at 6:18 p.m.</p> <p>2 This concludes today's testimony given by</p> <p>3 Carl Szabo.</p> <p>4 (Off the record at 6:18 p.m.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">139</p> <p>1 Q I'm not asking about any discussions</p> <p>2 between your attorneys. It's a yes or no. You</p> <p>3 don't have to discuss the content.</p> <p>4 Is there anything left out of your</p> <p>5 declaration that you meant to include?</p> <p>6 MR. DISHER: Please answer.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: The declaration represents</p> <p>9 a complete filing on behalf of NetChoice and myself.</p> <p>10 BY MS. CORBELLO:</p> <p>11 Q So there is nothing missing from this</p> <p>12 declaration, as you sit here today, that you can</p> <p>13 think of?</p> <p>14 MR. DISHER: Objection. Form.</p> <p>15 THE WITNESS: To the best of my</p> <p>16 knowledge, there is nothing that we have not</p> <p>17 included in this declaration.</p> <p>18 MS. CORBELLO: Pass the witness.</p> <p>19 MR. DISHER: We have nothing at this</p> <p>20 time.</p> <p>21 MS. CORBELLO: I think we're good.</p> <p>22 THE VIDEOGRAPHER: Please stand by.</p>	<p style="text-align: right;">141</p> <p>1</p> <p>2 Certificate of shorthand reporter - notary public</p> <p>3 I, Susan E. Alldridge, Registered Professional</p> <p>4 Reporter, Certified Shorthand Reporter, the officer</p> <p>5 before whom the foregoing deposition was taken, do</p> <p>6 hereby certify that the foregoing transcript is a</p> <p>7 true and correct record of the testimony given; that</p> <p>8 said testimony was taken by me stenographically and</p> <p>9 thereafter reduced to typewriting under my</p> <p>10 supervision; that reading and signing was requested;</p> <p>11 and that I am neither counsel for or related to, nor</p> <p>12 employed by any of the parties to this case and have</p> <p>13 no interest, financial or otherwise, in its outcome.</p> <p>14 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>15 and affixed my notarial seal this 19th day of</p> <p>16 November 2021.</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 NOTARY PUBLIC IN AND FOR THE DISTRICT OF COLUMBIA</p>

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